UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/ISR/2001/2
4 December 2001

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Consideration of reports submitted by States parties under article 40 of the Covenant

Second Periodic Report

Addendum

Israel*

[20 November 2001]

* This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

GE.01-46480 (E) 090402

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Introduction

1. This is the Second Periodic Report of the Government of Israel, submitted to the United Nations Human Rights Committee (HRC) in accordance with the requirements of article 40 of the International Covenant on Civil and Political Rights (the "Covenant" or the "ICCPR"). This report has been compiled by the Department for International Agreements and International Litigation at the Ministry of Justice, in cooperation with the Ministry of Foreign Affairs and other Israeli government departments. Israeli Non-Governmental Organizations ("NGOs") were invited to submit comments prior to the compilation of the present report, and their contributions were given substantial consideration.

2. Since the submission of the Combined Initial and First Periodic Report (UN document - CCPR/C/81/Add. 13) by Israel in 1998 (the "Initial Periodic Report"), many legislative, administrative and judicial developments relevant to the Covenant occurred. This report provides a comprehensive account of these developments.[1] It also addresses the comments made in the concluding observations by the HRC (CCPR/C/79/Add.93- dated August 18, 1998.

3. We should note that Israel underwent substantial policy and legislative changes since the Initial Periodic Report was submitted. Some policy and legislative changes, although decided upon, will no doubt take time until they are fully implemented. In many areas, however, substantial changes are already visible. A short summary of the main changes is included below.

4. In terms of legislation, between 1998 and today significant steps have been taken to promote human rights issues. Some of the more prominent new laws include the Prevention of Sexual Harassment Law, 5758-1998, and the amendment to the Equal Rights for Women Law, 5711-1951 adopted by the Knesset (Israel's parliament) in the year 2000 (both laws are described in detail under Article 3 of this report), the Freedom of Information Law, 5758-1998 (described in detail under article 19) and the Equal Rights for People With Disabilities Law, 5758-1998 (described in detail under article 26). Another significant legislative act, now in its drafting stages, is the Israeli Security Agency Bill, described in detail under article 2.

We should note that Israel has not enacted any further basic laws (Israel's constitutional laws) on human rights since the submission of its Initial Periodic Report. Nevertheless, the fundamental rights protected by the Present Covenant which are still not included in legislation, are effectively protected through judicial decisions and otherwise.

5. With respect to judicial decisions, The Supreme Court of Israel has continued playing a major role in the implementation of civil and political rights. The Supreme Court, led by its president, the Honorable Chief Justice Aharon Barak, has issued a number of precedent setting decisions on human rights issues, often creating a quick, apparent change in the practices of the relevant governmental agency. The court has faced many challenges over these years, and confronted head- on problematic and highly political and security-related contentious issues. Such cases include *H.C. 5100/94* Public Committee Against Torture in Israel v. The State of Israel, in which the court has held that the Israeli Security Agency is unauthorized to employ investigation methods which involve the use of physical pressure against persons suspected of engaging in terrorist activities; C.F.H. *7048/98 Anonymous* v. *The Minister of Defense*, in which

the court invalidated the detention of Lebanese citizens held in Israel; and *H.C. 6698/95 Ka'adan v. The Israel Lands Administration*, which effectively prohibited the allocation of State land on the basis of a discriminatory criteria.

6. On the administrative level many administrative decisions and regulations have been promulgated, enhancing human rights principles. A major advancement to be noted is the proposal to establish a Human Rights Commission in Israel. Once established, the Commission should play an important role in strengthening and enforcing the protection of fundamental rights. This proposal carries with it an additional declarative value, stating Israel's commitment to the protection of human rights and the assurance of effective remedies to all persons, without distinction of any kind, as required under article 2 of the Covenant. Thus, the establishment of the commission shall serve to enhance human rights consciousness within Israeli society, strengthening and enforcing the protection of fundamental rights.

7. The following report addresses the main issues raised by the covenant between the submission of the Initial Periodic Report and September 2000, as well as concerns raised by the Human Rights Committee. As instructed, the report shall be presented in the order of the Articles of the covenant.

Applicability of the ICCPR to the West Bank and the Gaza Strip

8. In its Concluding Observations on Israel's Initial Report, the Committee questioned Israel's position regarding the applicability of the Covenant to the West Bank and the Gaza Strip. Israel has consistently maintained that the Covenant does not apply to areas that are not subject to its sovereign territory and jurisdiction. This position is based on the well-established distinction between human rights and humanitarian law under international law. Accordingly, in Israel's view, the Committee's mandate cannot relate to events in the West Bank and the Gaza Strip, inasmuch as they are part and parcel of the context of armed conflict as distinct from a relationship of human rights.

Furthermore, pursuant to the Israeli-Palestinian Interim Agreement of 1995,[2] and the consequent documentation and undertakings of the Palestine Liberation Organization (P.L.O.),[3] the overwhelming majority of powers and responsibilities in all civil spheres (including civil and political rights, as well as a variety of security issues, have been transferred to the Palestinian Council, which in any event is directly responsible and accountable *vis-a-vis* the entire Palestinian population of the West Bank and the Gaza Strip with regard to such issues. In light of this changing reality, and the jurisdiction of the Palestinian Council in these areas, Israel cannot be internationally responsible for ensuring the rights under the ICCPR in these areas.

The fact that the Palestinian Council does not represent a State, does not, in itself, preclude its responsibility in the sphere of human rights protection. In fact, this is also evident under Article XIX of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, according to which the Palestinians have taken it upon themselves to exercise their powers and responsibilities "with due regard to internationally accepted norms and principles of human rights and the rule of law". Similarly, under Article II(C)(4) of the *Wye River Memorandum*, the Palestinian Police is obliged "to exercise its powers and

responsibilities with due regard to internationally accepted norms of human rights and the rule of law, and be guided by the need to protect the public, respect human dignity and avoid harassment".

Article 1 - Self Determination

9. This issue has been discussed in Israel's Initial Periodic Report and no change has occurred in this area since the Initial Periodic Report was submitted in 1998.

Article 2 - Implementation of the Rights in the Covenant

10. **General.** As described in detail in the Initial Periodic Report, international agreements are not, as such, part of Israeli internal law, and the Knesset generally does not legislate by way of direct reference to such agreements. Accordingly, the provisions of the Covenant have not been made a part of internal Israeli law by an enactment of the Knesset. Thus, as a matter of domestic law, the Covenant does not, by itself, create private rights directly enforceable in Israeli courts. However, as described under other articles of this report, Israeli legislation and case law have continued to offer effective protection and remedies for the basic rights protected by the Covenant.

11. **Basic Law: Human Dignity and Liberty.** This law, which was described in the Initial Periodic Report, is one of the fundamental backbones if Israeli Human rights legislation. This law has continued to influence the enactment and amendment of new laws, as well as the judicial interpretation of these laws, and continued to influence a wide range of legal and social practices, from the amendment of the arrest and detention procedures of military personnel, to the physical disciplining of children.

12. **Publicity and Dissemination.** The Initial Periodic Report concerning the implementation of the ICCPR, and the HRC's comments, were translated into Hebrew and widely distributed, thus contributing to the creation of a public discussion on human rights issues.

13. **Towards The Establishment of a Human Rights Commission.** In April 2000, the Ministry of Justice appointed a steering committee, composed of government officials, academics and representatives of NGOs, in order to establish an Israeli Human Rights Commission. The steering committee was instructed, for the first time since the establishment of the State of Israel, to guide the conducting of thorough research on the development of a human rights commission in Israel. The objective of the committee is to advise the director general of the Ministry of Justice on issues regarding the proposed structure of the Commission, the desired scope of the Commissioner's responsibilities and the legislation and required practical measures for the establishment of the Commission.

At the time of writing this report, researchers at the Hebrew University of Jerusalem's Minerva Center for Human rights, supported by the steering committee, have already completed a comparative study of human rights commissions throughout the world. The recently

completed study aims to identify and develop a model for a commission to suit Israel's unique political and social structure. The steering committee and the research team will present their recommendations for a draft law to the Minister of Justice.

Once established, the Commission will play an important role in strengthening and enforcing the protection of fundamental rights. The creation of a Human Rights Commission carries with it not only a huge practical change, but also an important declarative value, stating Israel's commitment to the protection of human rights and the assurance of effective remedies for all persons, without distinction of any kind, as required under Article Two of the Covenant. Thus, the establishment of the commission shall serve to enhance human rights consciousness within the Israeli society and government.

14. The newly-established Commission for the Rights of Persons with Disabilities makes for another first step in the ongoing process towards the implementation of human and civil rights in Israel (see article 26 for a detailed survey of the commission).

15. **Human Rights Education.** The Ministry of Education has increased its efforts in the area of human rights education. The main educational theme for the 1998-99 academic year was "The right to dignity and the duty to respect", putting an emphasis on human rights related materials in the schools. The Ministry of Education has also taken targeted measures to eliminate gender bias from schools, and promote equality between men and women. In Addition, the Convention on the Rights of the Child has been introduced and studied in the schools, in order to increase children's awareness to this instrument.

16. **Equality.** The implementation by the State of Israel of its obligation to maintain equality in the enjoyment of the rights under the Covenant is discussed in detail under many of the other articles in this report, and in particular articles 3, 26 and 27.

17. **Nationality.** As described in detail in Israel's Previous Report (sections 47-52), one way of acquiring Israeli citizenship is by way of Return. Jews who immigrate to Israel will automatically be accorded the status of *oleh* (new immigrant) which entitles them to citizenship, unless the person is deemed likely to endanger public health, the security of the state, or the public welfare, or the person is "engaged in an activity directed against the Jewish people". Under section 4A of the Law of Return, 5710- 1950 rights of an *oleh*, are also extended to the spouse of a Jew, to the child and grandchild of a Jew and to their spouses, respectively. For many years, The Ministry of Interior's policy has been to interpret the Law of Return as extending also to the Non-Jewish spouses of Jews who were already Israeli nationals (and not new immigrants), according them a status similar to that of a Jewish person, and of an *oleh* under the Law of Citizenship 5712-1952.

On 1995, the Ministry of Interior has changed its policy, and started to apply a different interpretation to the law. Under the new interpretation, the Law of Return will not, henceforth, apply to the Non-Jewish spouse of a person who already is an Israeli national, so that he or she will no longer receive the benefits of a Jewish new immigrant, including the right to automatically acquire Israeli citizenship.

Thus, the Ministry of Interior no longer favors Jewish Israeli nationals by automatically granting a citizenship to their foreign national spouses. At present, the foreign spouses of persons who are already Israeli nationals, whether Jewish or Non-Jewish, may attain Israeli nationality by way of naturalization (For further details regarding naturalization, please see Israel's Previous Report under section 50).

A petition challenging the new policy was dismissed by the High Court of Justice which affirmed the new policy (HCJ 3648/97 *Stamka v. The Minister Of the Interior*). A later request for a further hearing in this case was also dismissed by the High Court of Justice.

The Israel's Security Agency Draft Law

18. For the last 52 years, the Israeli Security Agency (the ISA) has operated under the government's general residual authority, as specified by section 40 of Basic Law: The Government. The scope of the ISA's authority, its structure and its roles were only partially regulated by Israeli law, although a number of sensitive issues, such as electronic surveillance, information regarding criminal record, the transfer of information between governmental agencies, and communications were regulated in specific legislation. For several years, a team of experts from various governmental ministries had been working on the drafting of the Israel's Security Agency Bill (in its current form, the "ISA Bill"). The ISA Bill, which seeks to offer an explicit legal description of all of the aforementioned matters, was developed after a thorough study of similar in the legislation of western democracies, such as Canada, Australia, Germany and the U.K. At present, it is in the process of enactment by the Knesset.

19. Under article 7(a) to the ISA Bill, the ISA's roles comprise of protecting the security of the State of Israel and the democratic system against threats of terror, espionage, disclosure of national secrets and other similar threats, as well as the protection and promotion of other vital national interests. This, subject to the decisions of the Government of Israel, and to Israeli Law.

20. Supervision over the Agency will be on a four-tier basis. The Agency will be supervised by an independent comptroller (who is not a member of the ISA), by a special Knesset committee, by a special ministerial committee and by the Prime Minister.

21. Under this draft legislation, an applicant for a classified job, rejected by the ISA for security reasons, can appeal against his/her rejection. A committee of three, headed by a district judge or a retired district judge, shall hear the appeals.

Article 3 – Equal Rights of Men and Women

22. **General.** In its comments on the Initial Periodic Report, the HRC expressed concern over the ongoing discrimination against women. The HRC recommended that targeted measures be considered to accelerate progress toward equality, in particular for Arab women.

Since the submission of the Initial Periodic Report, there has been significant progress in the status of women in Israel. This progress is apparent in the adoption of several new notable acts of legislation, in the precedent setting decisions given by the courts, and in actions and initiatives taken by the different government bodies. It is also true, however, that in some areas

of Israeli society, women are still relatively underprivileged. Some legislative changes have been rapidly implemented, as in the case of the Prevention of Sexual Harassment Law, 5758-1998. Other changes are harder to implement, for many reasons. For example, the integration of women within the formerly male dominated Israeli Defense Forces (the "IDF") is still quite far from desirable, as is the status women hold within the religious establishment.

Hopefully, all the positive changes detailed below, in conjunction with the constantly rising gender awareness in Israel, shall serve to further enhance the status of Israeli women in the years to come.

23. **The Authority for the Advancement of the Status of Women (the "AASW").** The AASW was established by the Knesset in a unanimous vote in March 1998, marking International Women's Day. The functions of the AASW include the formulation of policy regarding gender equality and the elimination of discrimination against women; coordination and promotion of cooperation between state government, municipalities, and other formal institutions; advising the ministries on the implementation of Equal Rights for People with Disabilities Law, 5758-1998; establishment of special programs and services for women which promote gender equality; promotion of legislative measures for the advancement of women and the elimination of discrimination; and provision of information and tools necessary for the achievement of these goals to the government. Additionally, the law has specifically charged the AASW with the responsibility to heighten public awareness of violence against women through use of the educational systems and the media and to promote activities designed to decrease all forms of such violence.

A detailed survey of the Actions and Programs of the AASW is provided in the AASW's National Report on the Status of Women in Israel "Beijing 5+", published in June 2000, and provided as an Appendix to this report.

24. **The amendment to the Equal Rights for Women Law, 5711-1951**, adopted by the Knesset in 2000, was another substantial step toward gender equality. The amended law establishes the principles of equality in all areas of life, adequate representation of women, a woman's right over her body, affirmative action as an essential means to achieve equality and women's right to social equality.

25. **Women's Representation in Political Parties and the Knesset.** Women are still under-represented in political positions, both in the national and municipal levels. However, there have been significant positive changes in the past few years. In the municipal elections of 1998, two women were elected to head larger cities, (Netanya and Herzliya) together with a 40 per cent increase in the number of women serving on local and municipal councils throughout Israel. In national elections, for the first time, several of the large parties included women's representation as a dominant factor in the establishment of party lists (through appointments, quotas, affirmative action etc.). Of the 120 members of the Knesset, 15 are women, among them the first Arab woman ever to be elected to the Israeli parliament.

Prime Minister Ehud Barak appointed two women as cabinet ministers, and a third as a deputy minister. Several other women were appointed to important Knesset committees.

Women in Government, Local Authorities and the Civil Service

26. Since its establishment in 1996, **the Department for the Advancement of Women within the Civil Service** has been active in various areas including the implementation within the Civil Service of legislation oriented towards the improvement of women's status, the promotion of information and counseling for women within the civil service, as well as the formation and professional orientation of professionals working to promote the advancement of women in the Civil Service. The Department has also served as an address for the complaints of female workers and has worked at maintaining on-going contact with organizations dealing with women's status in furtherance of common objectives, as well as with the Knesset various committees to advance women's rights legislation.

In the context of action aimed at implementing the 1995 amendment to the Civil Service Law (Appointments) 5719-1959, a steering committee was formed to make recommendations to the Civil Service Commissioner. As a result of the committee's suggestions and the relevant department 's efforts, section 15A of this law has been revised once again in December 2000. A current project the Department is preparing is the safeguarding of senior positions for women, by creating a resource of information, statistics, and guidelines for cooperation with the ministries' administrators.

27. **The Prevention of Sexual Harassment within the Civil Service.** With regards to the implementation of the Law on the Prevention of Sexual Harassment 5758-1998 and the reinforcement of awareness on the subject, the Department has been involved on several levels: dissemination of information and explanation of the Law to more than 10,000 workers in 1999 alone, and provision of tools to the supervisors on the status of women so that they may receive the workers' complaints. Indeed, since the passage of the Law in 1998, the number of complaints of sexual harassment received by the Department has increased dramatically (with 20 complaints received in 1997, 30 in 1998, 61 in 1999 and 75 complaints received in 2000). These Complaints are handled in cooperation with the Unit for Discipline and the Investigations Department within the Civil Service Administration. Women who submit complaints of sexual harassment to the Department are provided with legal advice, and are accompanied and supported throughout the investigative process and the trial.

As part of the training and professional orientation of Supervisors on the Status of Women in government offices, the Department held 3 training courses as well as approximately 30 sessions and conferences while providing on-going updates of relevant information and material to deal with issues relating to the status of women (in 2000, for example, 60 circulars were distributed to the Supervisors by the Department's, in addition to biannual meetings that take place for the purpose of regulating and supervising the Supervisors' work. Apart from guiding and supervising the Supervisors, the Department also holds direct contact with female Civil Service employees in the manner of information dissemination and personal meetings.

In addition to all the above, the Department has served as an address to which women workers turn to complain of discrimination, injustice and injury in their status and work conditions. Dozens of such complaints are received each year, concerning a wide variety of subjects. For example, in 2000, the Department processed and dealt with a total of 149 complaints relating to recruitment procedures for administrative positions which discriminated

against women, as well as with the non-application of labor laws in the realms of maternity leaves, sexual harassment, and lack of proper representation of women in state tenders.

28. **Affirmative Action in the Civil Service.** A December 2000 amendment to section 15A of the Civil Service Law (Appointments) 5719-1959 expands the use of the affirmative action doctrine within the civil service. According to the amendment it is obligatory to apply affirmative action in all sorts of hiring for the civil service. This includes actual appointments and non-tendered appointments. This amendment also authorizes the safeguarding of certain positions for women only. While the amendment carries tremendous significance with regards to the implementation of the law, its application might prove to be problematic given that these principles have been simultaneously employed for the advancement of other populations – minorities and people with disabilities. It is still not clear how the civil service will adapt to the application of this important amendment .

The Department for the Advancement of Women in the Civil Service supervises the affirmative action policy asserted in section 15A of the Civil Service Law (Appointments) 5719-1959. Preliminary data that was received from the Department, portrays an unchanging situation, in which the representation of women within the higher ranks of the civil service is far from being adequate, and the rate of their success in civil service tenders remains low.

29. **Ranks of Women in the Civil Service.** The rate of women among the top three ranks of the senior staff of the civil service's four main classifications – which compose the main source for administration managers – remains low. In 1997, when women made up 61% of all civil servants, that rate was still less than 15%, and in October 1999, when women made up 61% of all civil servants, the rate stood at 16.4%. Women's representation in the top echelons of the administration stands out yet more when contrasted with their representation in the lowest ranks (i.e. 8th rank and bellow), where their overrepresentation only seems to be growing: from 66% of all workers in 1997, to 71% in 1999. Between 1993-1999, not one woman occupied the highest rank of the administrative or the technical classification, two of the most prestigious classifications in the service.

30. **Tenders in the Civil Service**. The method of appointments to the civil service is through both internal and external tenders. While the increase of women's participation in internal job-tenders in the civil service, both as candidates and appointees, is quite constant, the situation in public tenders is far less positive. Beyond the overall decline in the number of female candidates and appointees through the tenders system, the trend, which consistently tended to appoint women at a slightly higher rate relative to the rate of women who presented their candidacy was reversed in recent years. For example, while 38% of the candidates for public tenders in 1998 were women, they constituted only 36% of the appointees.

31. **The Judiciary and Lawyers in the Public Sector**. Since the submission of the Initial Periodic Report, the percentage of women in the Judiciary has grown, most notably in the higher courts, with a growth of 72 per cent in the National Labor Court, 42 per cent in the District Courts and 28 per cent in the Supreme Court. In all of the different civil courts combined, there are 200 women judges and 262 men judges, such that 43 per cent of the civil judiciary in Israel is composed of women (compared to a total of 40 per cent in 1998).

Table 1: Judges, by Courts and Gender[**]

	Female	Male	Total	% Women
JUDGES				
Supreme Court	4	11	15	**27**
District Courts	41	69	110	**37**
Magistrates Courts	95	124	219	**43**
Traffic Courts	10	20	30	**33**
National Labor Court	3	4	7	43
Regional Labor Courts	21	14	**35**	**60**
Family Courts	18	14	32	**56**
Local Affairs Courts	2	1	3	**66**
Youth	5	2	7	**71**
Courts Administration	1	3	4	**25**
Total	**200**	**262**	**462**	**43**

[**] Figures are as of 16 November 2000.

32. **Government Corporations**. The 1993 amendment to the Government Corporations Law, 5735-1975 (section 18a) set a requirement for appropriate representation of both genders on the board of directors of every government corporation. Since the enactment of section 18 (a), there has been a significant increase in the number of women appointed to the board of directors of government corporations. According to recent data, 253 of a total of 685 directors (37 per cent) are women.

33. Under the above-mentioned amendment, a feminist NGO won a suit against the Minister of Labor and Social Affairs following the appointment of a male deputy director general of the National Insurance Institute, in violation of the principle of adequate representation of women. In a precedent setting ruling, the Supreme Court declared that anyone responsible for the appointment of public officials must take every possible measure to uphold the doctrine of adequate representation of women (H.C.2761/98 *Israel Women's Network v. The Minister of Labor and Social Affairs*).

Women in the Military and Police

34. Under recent legislation, all military professions in Israel, including combat positions will be open to both men and women. The military leadership has also committed itself to placing women in higher ranks and positions. The Israeli Air Force has continued the implementation of its egalitarian policy regarding women's service as air crew, which was still in its initiative steps by the time of the submission of the Initial Periodic Report. Today, four women are already serving in this capacity.

35. The IDF has embarked on several programs aimed to advance the status of women in the military forces. Among which are a program of workshops and empowerment courses to encourage junior officers to advance within the military, along with the appointment by the chief of staff of an advisory committee to identify female officers with potential for senior leadership

positions. Another program, initiated in conjunction with the Ministry of Education, encourages female recruits to choose to enlist in technological branches of the military and discharged female soldiers to continue their technological education.

Equality in Employment

36. Over 60% of Israeli women are still concentrated in a small number of large, female-dominated, labor intensive, and low-paying occupations, which encompass less than 25% of the range of occupations in Israel. It is thus not surprising that women comprise more than 70% of those who earn less than the average minimal wage. In addition, women are the first to be hit by unemployment. In 1998, while the annual national unemployment rate was 8.6, women's unemployment reached nearly 10 per cent. Several legislative changes, which will be detailed below, seek to solve this problem and close the gender gap, which still exists in certain areas of [text missing at this point].

37. The 1998 amendment to the Women's Employment Law, 5714-1954 protects women requiring hospitalization for themselves or their infants after child birth, prohibits dismissal during pregnancy of both permanent and temporary women workers, prohibits dismissal within 45 days after maternity leave, and prohibits dismissal for reason of absence from work for health reasons after giving birth.

Additional provisions prohibit dismissal after unpaid leave following (paid) maternity leave and reduction of work hours of pregnant women. According to the new legislation, a woman may, under certain conditions, work overtime, even after the fifth month of pregnancy.

38. Legislation mandating the integration of supplementary benefits (e.g. travel and clothing allowances) into salaries has recently been passed in the Knesset. This legislation is intended to help eliminate gender discrimination and to correct wage gaps, which have persisted despite equal pay legislation.

39. The Department of Women's Employment at the Ministry of Labor and Social Affairs has established the Unit for the Advancement of Women, specifically dedicated to the development of models for several types of empowerment workshops, including courses for Bedouin and Arab women.

40. In recognition of the wave of unemployment and its implications for women, the Minister of Labor and Social Affairs, in conjunction with the AASW, seeks to revise the traditional programs of occupational training, to provide women with training in more viable professions, such as computers, communications and technological education.

41. Only a handful of women attain top posts in management, whether in industry, government, the public sector or academia. Only 2% of women serve in positions of senior management and/or on the board of directors of large companies.

42. **Occupational Distribution**. Differences in employment patterns between men and women in Israel are shown in the following table, showing the relative level of employment in various branches of the economy. Few significant changes have occurred in the occupational

distribution of women since the submission of the Initial Periodic Report. However, at present, 3.5% of all employed women in Israel are employed in managing positions – an increase of 75% since 1998.

Table 1: Percent of Women and Men in Economic Branches, 1999

Economic Branch	% of Total Employed Men in Branch	% of Total Employed Women in Branch
Agriculture	3.3	1.1
Manufacturing	24.1	11.4
Electricity and water supply	1.4	0.3
Construction (building & engineering projects)	9.6	0.9
Trade and motor vehicle repair	14.5	11.8
Accommodation services & restaurants	4.4	4.1
Transport, storage & communication	8.6	3.7
Banking, insurance & finance	2.7	4.4
Business activities	10.9	10.2
Public administration	5.6	5.3
Education	5.5	21.3
Health, welfare & social services	4.5	16.7
Community, social & personal services	4.3	5.1
Private households with domestic personnel	0.4	3.7
Total	**100**	**100**

Table 2: Employed Persons, By Last Occupation and Gender

	Percent of all Employed Men	Percent of all Employed Women
Academic professionals	12.2	13.0
Associate professionals and technicians	10.5	19.7
Managers	8.7	3.5
Clerical workers	8.2	27.7
Agents, sales workers and service workers	15.3	21.9
Skilled agricultural workers	2.9	0.6
Industry, construction & other skilled workers	33.8	5.6
Unskilled workers	8.4	8.2
Total	**100**	**100**

43. The ability of a woman to continue working right after childbirth has been enhanced through a recent decision in the Circuit Labor Court in Tel Aviv. This court adopted a broad interpretation of a provision of the Equal Employment Opportunities Law, 5748-1988, under which a female parent, entitled to a shorter working day, can pass that right to her spouse,

regardless of whether her being a hired worker or an independent businesswoman. The court has held that this interpretation, which expands the circle of male workers, willing to tend to their children while their spouse is out working, is consistent with the view that objects to gender based discrimination. The court further emphasized that it is unjustified to discriminate between men and women as to their chances and ability for equal employment, a flourishing career, self fulfilment and satisfaction at the work place (Labor 031993/96 *Yahav v. The State of Israel*).

44. **Education.** The Ministry of Education has instituted "Equality 2000", a unique program, designed to further equal opportunity between the genders in the education system. The program, scheduled to run for four years, will reach pupils, teachers and counselors as well as parents. A pilot program has been operated in four schools whose populations represent different sectors of Israeli society and the program will be expanded in the coming year.

45. **Women in the Media**. The Commission on the Status of Women in Radio and Television, under the purview of The Israel Broadcasting Authority, actively attempts to promote the participation of women at all levels of Media. The commission has sponsored courses for women within the broadcasting authority. These courses provide information on women's rights, awareness training concerning the role of the media in advancing the status of women, skills for working in male-dominated environments, and personal and professional empowerment.

46. **Equal rights in the Domestic Sphere.** Israeli law and practice regarding the equality between spouses, and between spouses and their children, are discussed under articles 23 and 24.

Violence Against Women

Domestic Violence

47. Protection from violence is provided at 12 shelters for battered women, located throughout the country. Due to their particular cultural and religious needs, there are special centers for Arab women (one) and for ultra-Orthodox Jewish women. Together, these shelters provide emergency intervention for nearly 1,600 women and children yearly.

The shelters provide professional counseling, legal advice and assistance, as well as childcare and rehabilitation. Several shelters also have multi-lingual staff and volunteers in order to assist immigrant women. Children continue in community-based day care or elementary school frameworks while residing in the shelter. In addition, there are thirty transitional apartments, which provide women with additional options when they are ready to leave the shelters.

A unique shelter for abusive men who have been removed from their homes by court orders has been established. In this shelter, the men receive group and individual treatment, as well as consciousness-raising and behavior modification counseling.

48. At least ten hotlines are devoted to battered women throughout the country; one is devoted to Arabic speakers, while Russian and Amharic (Ethiopian) speakers are available on most of the others. Callers receive advice and information from trained volunteers.

49. During the course of 1999 – upon the initiative and financial support of the National Authority for the Advancement of the Status of Women – the Department held a wide range of activities on the subject of domestic violence and violence against women, including information and counseling session which drew as many as 13,500 male and female workers and employees.

50. There are 25 centers for the prevention of family violence, located throughout the country. These centers are jointly funded and administered by the Ministry of Labor and Social Affairs, women's organizations, and the local authorities. The centers provide direct treatment, visiting centers where parents and children who have been separated can meet (under supervision if necessary); and legal advice and research and information.

51. The Knesset has recognized the Battered Women's Syndrome, acknowledging the right of a battered woman to defend herself against her attacker and effectively broadening the definition of "self-defense".

52. Furthermore, the Knesset has passed an amendment to the Penal Code to allow the courts to impose more lenient sentences on victims of severe abuse who have been convicted of murdering the perpetrator of the abuse. While the amendment is not limited to abuse within the family, it seems that this will be among its most important applications.

53. **Police treatment of Domestic Violence.** Police personnel currently receive special training for dealing with family violence. Police policy dictates that domestic violence be treated as a violent crime, and that the victim be protected. Furthermore, the police may continue to investigate a complaint of violence even if the woman withdraws her complaint. However, as in most countries, the majority of abused women do not file complaints with the police.

The police also have the prerogative of filing a report even if the abused woman declines to do so. Women's organizations report that cooperation with the police is generally effective, and the Minister of Public Security has appointed an advisor on violence against women.

54. In March 1995, the Knesset appointed a parliamentary committee of inquiry to investigate the subject of women murdered by their spouses and life partners. The committee further broadened its mandate to investigate the subject of violence against women, so as to investigate the subject of violence against women and presented its conclusion and recommendations in June 1996. This comprehensive report analyzed the causes of domestic violence, the adequacy and efficacy of existing services, and gaps in service-provision. The report presented comprehensive, integrated and binding recommendations to each of the relevant Ministries.

55. Building on this report, the government decided in 1998 to establish an inter-ministerial committee to deal with issues of law enforcement and strengthening of existing services. The committee was chaired by the director general of the Ministry of Labor and Social Affairs, and included representatives from the Prime Minister's Office, the AASW, the Ministry of Public Security, the Ministry of Health the Ministry of Education and women's organizations.
In 1997-98, the Prime Minister's Office sponsored a national media campaign against violence against women, including a national hotline and referral service.

Sexual Harassment

56. In March 1998, the Knesset passed a far-reaching sexual harassment law, one of the most comprehensive laws of its kind in the world. The law provides a broad definition of sexual harassment, and makes such behavior both a criminal and civil offence. The law applies not only to the civilian labor market, but also to the military, police, as well as all institutions of higher education. The law holds the employer responsible for instructing his workers in abstaining from sexually harassing behavior. Furthermore, the employer must establish procedures for submitting complaints and is required to deal with all complaints effectively.

57. In the past year, there has been a significant increase in complaints. This can be attributed to both the new legislation, and to the growing public awareness of the subject fostered by it.

58. As the sponsors of the bill had hoped, the law has also served as a springboard for numerous institutions to initiate a process of discussion and awareness of gender equality among both men and women. Following its enactment, the AASW, together with numerous women's organizations, is conducting extensive educational campaigns. The AASW further provides supervision, follow-up and monitoring of all government ministries, municipalities, local councils, and academic institutions regarding enforcement of the Sexual Harassment Law.

59. The Supreme Court has issued several precedent-setting decisions in regard to sexual harassment. Even prior to the enactment of the Sexual Harassment Law, the court has held that a professor who sexually harassed a student was to be convicted in the offence of behaving in a manner inappropriate for a civil servant, asserting that sexual harassment is a prohibited violation of human dignity (Civil Service Appeal 6713/96 *The State of Israel v. Zohar Ben Asher*).

Under the new Sexual Harassment law, the Supreme Court has prevented the promotion of an IDF officer to the rank of general, after he was found guilty of abusing his superior rank in order to become involved in a sexual relationship with one of his subordinates (H.C. 1284/99 *Anonymous v. The IDF Chief of Staff*). In another recent, precedent setting decision, the court has held that the reprimanding of a civil servant convicted of sexual harassment is an insufficient disciplinary method, and ordered his dismissal from the service (Civil Service Appeal 1298/00 *The State of Israel v. Bruchin*). The lower courts throughout the State of Israel are applying these precedents, set by the Supreme Court.

The IDF has committed itself to addressing issues related to sexual violence and harassment in the military, and all recruits, both men and women, participate in a program of empowerment and awareness to counteract harassment.

Treatment of Rape Victims

60. Israel's eight rape crisis centers receive over 10,000 referrals each year. These centers also maintain hotlines and provide educational services. Public support for the rape crisis centers is relatively low. Donations and contributions provide most of the support. The centers report

that while police directives are meant to provide sensitive and effective care for the victim, the implementation of these directives is not uniform throughout the country. Moreover, in Israel, as in other countries, assaulted women are often reluctant to contact the police.

Trafficking in Women

61. In its comments on Israel's Initial Periodic Report, the HRC expressed concern in regard to Israel's treatment of the victims of trafficking in women. In July 2000, the Penal law was amended to include section 203A – Trafficking in Human Beings for Prostitution. The provisions of section 203A apply a maximum sentence of 16 years of imprisonment on any person who engages in trafficking in human beings for prostitution, and a maximum sentence of 10 years on any person who causes another person to leave the country in which he or she resides, in order to engage them in prostitution.

62. As the amendment is recent, there are no cases which have gone through the entire trial process thus far. However, the effect of the amendment has been felt in decisions relating to bail. In a decision given in a criminal case under section 203A, Judge Cheshin of the Supreme Court had expressed the severity in which Israeli courts regard the phenomenon of trafficking, saying, *inter alia*, that:

> "The provisions of section 203A of the Penal Law are meant to combat the modern and ugly form of the slave trade of bygone days, and we, the courts, are charged with the task of raising our contribution in this war, a fight to the finish... [T]he war against the trade in human beings to engage in prostitution, is like the war between Israel and the Amalekites [*In the Old Testament, a tribe that tried to destroy the Israelites*]. ... a war in which there are no cease-fires and no compromises."

Criminal Hearing Request 7542/00, *Chanukow v. The State of Israel* (Unpublished)

63. The effect of the amendment has also been felt in cases in which there was some measure of consent on the part of the victim. Supreme Court Justices have said several times that whether or not the victim consents, if the elements of trafficking are present, the offence has been completed and such an offence is viewed with gravity.

64. We should also note that currently victims of trafficking who choose to testify are housed in hotels or hostels, at the expense of the police, under police protection. In addition, as a matter of policy, the Israeli police does not prosecute these women for crimes relating to their illegal entry into Israel.

65. The suffering of women who were victims of such offences is a matter of concern to the Attorney General, and in November 2000 he appointed an inter-ministerial committee to recommend steps to combat this phenomena. Since then the committee has heard many witnesses and formulated a series of recommendation which will be publicized soon. Among these recommendations – the founding of a shelter for victims, financing legal representation for the victims, taking legal action against traffickers for income tax and money laundering crimes, extending the jurisdiction of the courts to order forfeiture of the profits of such crimes, running

awareness campaigns in order to alert potential victims etc. A parliamentary committee is also carrying an investigation into trafficking in women. Its recommendations will be drafted soon.

66. Israeli women's and human rights organizations have established a coalition to combat trafficking in women and to assist its victims. At this time, they are attempting to raise funds to establish a shelter for such trafficking victims. In addition, a telephone hotline has begun to function. The coalition is also attempting to prevent trafficking through the preparation of a data sheet to be distributed, with the help of organizations in Eastern Europe, to women intending to work in Israel. They are also advocating for the enforcement of existing laws against traffickers and to improve the conditions of incarcerated women awaiting deportation.

Status of Arab Women

67. In its comments regarding the Initial Periodic Report, the HRC expressed a specific concern as to the status of women belonging to the Arab minority. Admittedly, Arab women are still among the most disadvantaged groups of women in Israel. However, Since the establishment of the AASW, certain targeted measures has been taken in order to expedite progress towards equality. *Inter alia*, the AASW is sponsoring a series of literacy projects for women in the Arab and Bedouin sectors. This program is the result of the express requests of the women themselves, and has established a new Arab-language hotline for personal status issues which now provides emergency information and referral services.

68. Several women's NGOs have established special projects to advance the status of Arab women pursuant to the law, through amendments of current family courts laws. Such amendments would enable Arab women to settle issues of maintenance and custody in civil courts, which are bound by principles of gender equality, rather than at the religious courts which are bound by religious law.

69. The Ministry of Religious Affairs has instituted a course that trains women to serve as "pleaders" (representatives) in the Muslim religious courts. The nineteen participants are studying topics such as Islamic religious law, Israeli civil law and feminist thought. Upon successful completion of their exams, the ministry will accredit the graduates. Similar courses are offered to Jewish women, who act as pleaders for women in the rabbinical courts.

Article 4 – States of Emergency

70. In its comments on the Initial Periodic Report, the HRC expressed concern with regard to the continuing state of emergency in Israel.

71. As explained in detail in the Initial Periodic Report, under Basic Law: The Government, the Knesset may declare a state of emergency for a period of up to one year. The State of Israel has remained in an officially proclaimed state of public emergency since May 19, 1948, four days after its founding, until the present day. Consequently, Israel has made a declaration regarding the existence of a state of emergency upon ratifying the Covenant.

72. In recent years, The Government of Israel has been inclined to refrain from extending the state of emergency any further. However, the actual termination of the state of emergency could

not be executed immediately, as certain fundamental laws, orders and regulations legally depend upon the existence of a state of emergency. These acts of legislation must be revised, so as not to leave crucial matters of the state unregulated when the state of emergency expires. Since January 2000, the government has decided to ask the Knesset to extend the state of emergency to a reduced period of six months, and not for a year, the maximum period prescribed under section 49(b) of Basic Law: The Government, as was the former practice.

73. Following the present extension of the state of emergency, the Israeli government and the Knesset have embarked on a joint program to complete the needed legislative procedures required in order to end the state of emergency. As a result, measures toward a termination of the state of emergency were accelerated during the previous months, including concentration of orders considered to be canceled. In addition, the Military Service Law was amended. As a result, non of its articles are now linked to the state of emergency. Other laws are still in the process of revision, in collaboration with the relevant ministries.

74. In a recent petition to the High Court of Justice, there was a demand to pronounce the declaration regarding the existence of a state of emergency void, or alternatively, order that it is to be immediately terminated. The petitioners claim that the ongoing state of emergency poses a threat to democracy and to civil rights and that in the present circumstances it is no longer vital. At present, the matter is still pending before the High Court of Justice. The government has submitted to the Court, upon its request, a comprehensive estimated schedule regarding the measures required in order to replace the acts of legislation linked directly to the state of emergency.

Article 5 – Non-derogable Nature of Fundamental Rights

75. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 6 – Right to Life

Reduction of Infant Mortality, Epidemics and Malnutrition

76. Recent statistics indicate that Israel's infant mortality rate continues to decrease. Among Jewish, Christian and Druze newborns, the infant mortality rate fell to 7.5 deaths for every 1,000 live births, as per the Ministry of Health's goal for the year 2000, set in 1989. Among the Muslim population, despite the continuing decrease in child mortality rate, the aforementioned objectives are yet to be achieved. The further decrease in infant mortality over the last quarter decade, and the causes for such deaths, are shown in the following tables:

Table 1: Infant Mortality, 1995-1998 – Per 1,000 Live Births

	Total	Jews	Muslims	Non-Jews (Total)
1995	6.8	5.6	9.9	9.6
1996	6.3	5.0	10.0	9.3
1997	6.4	5.0	10.2	9.4
1998	5.8	4.7	8.7	8.3

** 1997-1998 temporary data

Table 2: Infant Mortality (Rate per 1000 Live Births) By Religion and Age of Neonate at Death, 1992-1996

Cause of Death	Total	Early Neonatal Mortality 0-6 Days	Late Neonatal Mortality 7-27 Days	Post-Neonatal Mortality 28-365 Days
Total				
Total	**7.6**	**3.5**	**1.3**	**2.8**
Infectious and parasitic diseases	0.1	..	(0.0)	0.1
Pneumonia	0.1		(0.0)	0.1
Congenital anomalies	2.2	0.4	1.0	2.2
Other causes of prenatal mortality	3.4	2.2	0.7	0.5
External causes	0.2	(0.0)	(0.0)	0.2
All other and unspecified causes	1.6	0.2	0.2	1.2
Jews				
Total	**5.9**	**3.1**	**1.1**	**1.7**
Infectious and parasitic diseases	0.1	..	(0.0)	0.0
Pneumonia	0.0		..	0.0
Congenital anomalies	1.6	0.7	0.3	0.5
Other causes of prenatal mortality	3.2	2.2	0.7	0.4
External causes	0.1	0.0	(0.0)	0.1
All other and unspecified causes	0.9	0.1	0.1	0.7
Non-Jews				
Total	**11.4**	**4.5**	**1.6**	**5.3**
Infectious and parasitic diseases	0.4	..	..	0.3
Pneumonia	0.1		..	0.1
Congenital anomalies	3.7	1.7	0.6	1.4
Other causes of prenatal mortality	3.8	2.4	0.6	0.7
External causes	0.3	..	..	0.2
All other and unspecified causes	3.1	0.3	0.3	2.5

Incidence of Murder, Attempted Murder, Manslaughter and Negligent Homicide

77. The following table is a compilation of the incidence of reported cases of the four types of offenses involving deprivation of life, as of August 2000 .

Offense	Murder	Attempted murder	Manslaughter	Negligent homicide, excluding vehicle accidents
1997 – Reported cases	117	102	17	72
% arrested	62.4%	65.7%	82.4%	75.0%
1998 – Reported cases	147	113	7	62
% apprehended	4.6%	65.5%	71.4%	72.6%
1999 – Reported cases	137	105	12	58
% apprehended	70.1%	65.0%	83.3%	72.4%
Jan.- Aug. 2000 Reported cases	85	72	11	29
% apprehended	63.5%	58.3%	72.7%	55.1%

Environmental Policy

78. **Air Quality.** Since the submission of the Initial Periodic Report, the State of Israel has completed a 24-station national monitoring network, composed of population and transportation stations, regional control centers and a national control center for data storage, analysis and display. The network, which monitors concentrations of sulfur dioxide, nitrogen oxide, ozone, carbon monoxide, particles smaller than 10 p.p.m and hydrocarbons, provides real-time information about air quality throughout the country. The information facilitates enforcement of air quality standards, identifies major sources of air pollution, and informs the general public about air quality levels.

Sulfur dioxide emissions from the country's oil fired power plants dropped dramatically from 113 thousand tons in 1990 to 55 thousand tons in 1999, mostly through the use of low-sulfur fuel.

The Israeli Ministry of the Environment has issued some thirty personal decrees directed personally to those officials or top executives responsible for air pollution abatement under the Abatement of Nuisances Law. The Ministry of the Environment has also drafted new regulations for pollution prevention from power generating stations. These personal decrees and regulations will mandate use of fuel with low and very low sulfur concentrations, require old power units in Tel Aviv to switch to natural gas by 2003, phase out old oil-powered stations and replace them with combined cycle gas turbines by 2005, obligate the use of the best available technologies, demand continuous monitoring and reporting, and oblige the reduction of pollutants which are considered greenhouse gas emissions.

Since the submission of the Initial Periodic Report, new environmental impact assessments were prepared for power plants, oil refineries, cement plants and other industrial plants expected to adversely impact the environment.

79. **Water Quality.** The State of Israel has established the River Rehabilitation Authority and created river rehabilitation administrations for twelve rivers, which flow into the Mediterranean Sea and two rivers in the eastern basin of the country. Master plans have been drawn for these rivers, and landscape and park development have been initiated.

Water quality in rivers is monitored in 110 effluent reservoirs on a biannual basis.

The Ministry of the Environment has drafted recommendations on upgraded standards for wastewater and sludge treatment, and published a new Israeli standard on laundry powders. The standard reduces salt and boron content in detergents according to a graduated timetable. Implementation of the standard will enhance the possibility for wastewater reuse under conditions of water scarcity. The Ministry of the Environment has also promulgated regulations regarding the prevention of water pollution from gas stations and initiation of restoration projects for fuel-contaminated soils. Furthermore, new regulations have been published on effluent standards for industrial sewage.

Article 7 – Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

80. In its comments on the Israel's Initial Periodic Report, the HRC expressed deep concern that the guidelines for the conduct of interrogation of suspected terrorists, authorizing Israel's Security Agency (ISA) to apply moderate physical pressure, can give rise to abuse and the violation of article 7 of the Covenant.

81. From its foundation, the State of Israel has been engaged in an unceasing struggle for both its very existence and security. Terrorist organizations have established, as their goal, nothing less than Israel's annihilation. To prevent terrorism effectively while ensuring that the basic human rights of even the most dangerous of criminals are protected, Israeli authorities have adopted strict rules for the handling of interrogations.

82. The guidelines on interrogation were those laid down in 1987 by the Landau Commission of Inquiry, headed by former Supreme Court President, Justice Moshe Landau. As described in detail in articles 70-74 of the Initial Periodic Report, the commission determined that in dealing with dangerous terrorists who are shown to represent a grave threat to the State of Israel and its inhabitants, the use of a moderate degree of pressure, including physical pressure, to obtain information crucial for the protection of life is unavoidable in certain circumstances (H.C.J. 5100/94 *The Public Committee Against Torture v. The Government of Israel*).

83. These partly confidential guidelines were designed to enable investigators to obtain crucial information on terrorist activities from suspects who, for obvious reasons, would not volunteer such information, while at the same time ensuring that the suspects are not maltreated. However, On September 6, 1999, the High Court of Justice ruled that the ISA is no longer authorized, according to the present state of the law, to employ certain investigation methods that involve the use of physical pressure against such a suspect.

84. This decision is a result of several petitions, which were brought before the Supreme Court (sitting as the High Court of Justice), in which it was argued that certain methods used by

the ISA (for instance, the shaking of a suspect, holding him in particular positions for a lengthy period and sleep deprivation) are unlawful. It was argued, among other reasons, that the illegality is due to the lack of authority permitting the use of these interrogation methods.

85. The Court, in an extended panel of nine judges, unanimously accepted the applications before it. Speaking for the court, Chief Justice Aharon Barak held that ISA investigators are endowed with the same interrogation powers given to police investigators. The authority which allows the investigator to conduct a fair investigation does not allow him to torture a person, or to treat him in a cruel, inhuman or degrading manner. The Court recognized that, inherently, even a fair interrogation is likely to cause the suspect discomfort. The law does not, however, authorize the use of interrogation methods, which infringe upon the suspect's dignity, for an inappropriate purpose, or beyond the necessary means.

86. Additionally, the Court held that the "necessity" defense, as it appears in article 34(11) of the Israeli Penal Law (which negates criminal liability in certain circumstances), cannot constitute a general basis for allowing ISA investigators to employ interrogation methods involving the use of physical pressure against the suspect. An ISA investigator applying such prohibited interrogation methods is acting without authority. He or she may, however, potentially avail himself or herself of the "necessity" defense, under the circumstances provided by the law, if facing criminal charges for the use of prohibited interrogation methods. The attorney general may so instruct with respect to the circumstances under which charges will not be brought against ISA investigators, in light of the materialization of the conditions of "necessity." At the same time, the "necessity" defense does not constitute a basis for authorizing the infringement of human rights in advance. The mere fact that a certain action does not constitute a criminal offence, under a given set of circumstances, does not in itself authorize the ISA to employ this method in the course of its interrogations.

87. The judgement relates to the unique security problems faced by the State of Israel since its founding and to the requirements for fighting terrorism. In light of the above, the court highlights the difficulty associated with deciding this matter. This having been said, the court did not rule out the possibility that the Knesset may decide, in conformity with Basic Law: Human Dignity and Liberty, to amend the law so as to provide special authorization for the use of certain interrogation techniques. It is important to mention that the Knesset did not change the existing legislation relating to interrogations, and the ISA fully complies with the Supreme Court decision.

88. **Treatment of Detainees.** On April 1, 1998, section 9 of the Arrests Law was amended and special arrangements were prescribed regarding the right of detainees (who had been indicted) to send and receive letters, including modes of inspection of letters.

On November 25, 1999, the regulations under the Arrests (Conditions of Detention) Law were amended and the Inspector General of the Israel Police Force was empowered to order the denial of visits from a detainee person, as specified therein.

The Israel Police Force complies with the provisions of the Arrests Law and the Regulations thereunder, although at certain times and at certain places of detention, rights are not fully upheld (for example, accommodation without a proper bed, separation and daily exercise).

The police are currently renovating the places of detention for which it is responsible, expending scores of millions of New Israeli Shekels ("NIS") on this project. The renovations should be completed within two years, and after completion the detention installations should be of a higher standard than that required under the Law.

Disciplinary and Criminal Proceedings and other Judicial Relief

89. A number of bodies are engaged in the investigation, examination and clarification of complaints against police officers: the Department of Investigation of Police Misconduct of the Ministry of Justice (the "DIPM") investigates criminal offenses which are punishable by imprisonment of more than one year; police investigation units investigate criminal offenses punishable by imprisonment of up to one year; the Israel Police Public Complaints Unit at its various levels, as well as investigating officers and committees examine and clarify those complaints not investigated by the DIPM and police investigation units.

Depending on the results of the clarification of the complaints, criminal or disciplinary proceedings are taken against police officers found, *prima facie*, to have committed an offense.

The DIPM, which is responsible for the majority of criminal investigations against police officers, transfers files to the Disciplinary Department of the Police Personnel Department (the "Disciplinary Department") in which disciplinary offenses are found to exist *prima facie*, in order to examine such cases from the disciplinary aspect, including making a decision on initiating disciplinary action.

Such files include files in which the offense ascribed to the police officer does not constitute a criminal offense, as well as files closed by the DIPM from the criminal aspect, on various grounds.

In this regard, we should note that in files in regard to offenses relating to the use of unlawful force, the Director of the DIPM is competent to decide that disciplinary proceedings be taken.

90. The Disciplinary Department examines files transmitted to it from various examining bodies, and decides whether disciplinary action should be taken. Such action includes bringing a person for a disciplinary hearing before a disciplinary tribunal, bringing a person for a disciplinary hearing before a sole adjudicator, or the giving of a warning.

From the beginning of the investigation until after the conclusion of the criminal or disciplinary proceedings, if taken, the police also consider taking administrative proceedings, including dismissal from the police, suspension, being put on enforced vacation, transfer to another function, lowering of rank, delay in any rise in rank and issue of a warning.

91. The following statistics were compiled by the Israel Police Force and the DIPM regarding the treatment of disciplinary and criminal complaints, respectively :

Table 1: Treatment of Disciplinary and Criminal Complaints

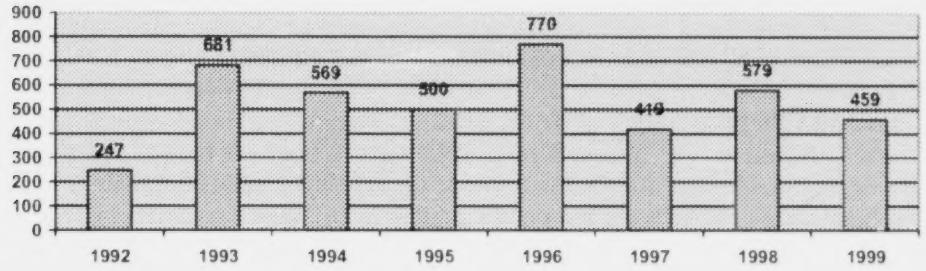
	1996	1997	1998	1999
No. of indictments filed in the Disciplinary Tribunal	135	164	175	140
No. of indictments adjudicated in the Disciplinary Tribunal	150	147	137	117
No. of DIPM files regarding use of force – recommended to be put on trial	18	38	47	78
No. of DIPM files regarding use of force – recommended for hearing before Disciplinary Tribunal	121	112	78	69
No. of DIPM files regarding the use of force – recommended for trial before a single adjudicator	50	65	34	64
No. of DIPM files received by the Disciplinary Department – recommendation to consider disciplinary proceedings	406	357	425	424
No. of officers dismissed from the force for involvement in violent offenses	-	4	3	7
No. of officers dismissed from the force for involvement in other offenses	22	18	32	34
No. of officers dismissed from the force for disciplinary problems – functional or not-suitable	16	18	21	38
No. of officers suspended from the force for involvement in the commission of offenses	13	10	15	15

Table 2: Cases Handled by the Department for Investigation of Police Misconduct

Subject		1997	1998	1999
Number of Cases at the beginning of the year		788	924	1 097
Cases opened during the year	Use of Force	2 605	3 138	3 477
	Others	2 429	2 650	2 667
	Total	**5 034**	**5 788**	**6 144**
Cases handled in full during the year	Closed due to lack of guilt	755	833	820
	Impossible to fully clarify	5	0	0
	Lack of Evidence	906	1 101	1 257
	Disciplinary charges	246	333	243
	Criminal charges	173	246	216
	Other*	686	669	574
	Total	**2 771**	**3 182**	**3 110**
Cases closed without an investigation		2 127	2 433	2 987
Remaining cases by end of year		924	1 097	1 144
Average number of cases treated per month		231	468	508
Average duration of handling (months)		4.0	2.3	2.3

* Cases opened by mistake, cases united, unknown offender, lack of public interest.

Chart 1: Number of DIPM Files Recommended to be Put on Trial



Training of Law Enforcement Officials

92. The Israel Police Force maintains comprehensive training programs for personnel at all levels, based on a profession level as well as on the position held by the person on the hierarchical scale. In all the courses, without exception, human rights and human dignity are dealt with, either by directly dealing with these topics or by dealing with professional issues in the spirit of human rights and dignity.

Special emphasis is placed on the issue at two junctures: first, in the police officers entry-level training course. This course has an important function, serving as a connecting factor to provide the civilian of yesterday with the rules of conduct and framework of reference required by him as a police officer.

The second juncture is the officers' course, which constitutes a change of status, where henceforth the police officer is not only responsible for his or her own values and norms of conduct but also for those personnel under his command.

The training which the police give to police personnel and officers includes, *inter alia*, workshops on "Human Rights and Democratic Values" led by presenters from the Association for Civil Rights in Israel and from the Council for the Rule of Law and Democracy. For example, 124 of these workshops were held in 1999, with the participation of thousands of police officers.

Similarly, about 90 professional ethics workshops are held each year for about 3,000 police officers, in which emphasis is placed on human dignity.

Other Institutional Reform Measures

93. Further to the recommendations of the Kremnitzer Committee on Police Violence, adopted by the inspector-general, the police have, for a number of years, conducted numerous activities in many aspects relating to handling the occurrence of violent behavior among police officers. In an effort to base appropriate norms among police officers regarding use of force while on duty, much has been done in recent years in terms of information and training, by means of courses and practical workshops.

In addition, administrative action has been taken against police officers involved in the commission of violent crimes, and action has been aimed at increasing the involvement of those entrusted in the field to deal with this issue, including their increased responsibility for any excessive acts committed by the police officers subject to their control. For further information on the Kremnitzer Committee, please see section 199 of the Initial Periodic Report.

94. **The Goldberg Committee.** As reported in detail in the Initial Periodic Report, a public committee headed by Supreme Court Justice Eliezer Goldberg was appointed in 1993 by the Minister of Justice and the Minister of Police to examine the validity of convictions based solely or almost solely upon the defendant's confession, the availability of retrial, and other topics related to the rights of those investigated by the police. As part of the police preparations toward imposition of an obligation to record investigations, a trial model has been employed for about three years, in most police investigation units, of recording investigations in the most serious crimes. It should be noted that in view of these steps, the amount of *voir dire* hearings has significantly decreased.

One of the recommendations of the Goldberg Commission was to set up a school to learn investigative techniques. As a result of this, in September 1999 the police set up a center for training the Investigations Department designed to train the investigation and prosecution branches of the Israel Police Force.

By August 30, 2000, 1,268 trainees had completed studies of various kinds at the continuing education center, designed to broaden the professional knowledge of investigators in the specific areas which an investigator particularly requires increased knowledge, such as the study of fraud and deceit, sex offenses, juvenile crime, questioning, offenses involving death, crime rings, and others areas.

95. **Commitment to Psychiatric Hospitals.** The following table refers both to psychiatric hospitals and to psychiatric wards within the general hospitals:

Table 1 – Involuntary Psychiatric Commitments, 1995-1998

Year	Court ordered	District Psychiatrist's order
1995	1 235	1 589
1996	1 110	1 564
1997	1 128	2 039
1998	1 310	2 681
1999	913	3 257

96. Since the submission of Initial Periodic Report, there has been an increase in the number of involuntary commitments to psychiatric hospitals, which now make up 14.6% of all commitments, as opposed to 9.7% in 1996. This rise can be attributed to the enactment of the Patient Rights Law 5756-1996. The law has brought about a notable increase in awareness to the

necessity to obtain the patient's rational consent to the hospitalization, or an adequate legal substitute. Thus, statistics of cases when the patient had to be hospitalized involuntarily are now more accurate.

97. The number of beds assigned for psychiatric hospitalization has decreased. Instead, a growing number of patients are referred to geriatric hospitals, hostels, and other alternatives provided by the community. An amendment to the Welfare (Treatment of Mentally Handicapped Persons) Law, 5729-1969 regarding the rehabilitation of the mentally disabled in the community was recently enacted.

Experimentation on Human Beings

98. In 1999, the regulations pursuant to the National Health (Medical Experiments on Human Beings) Law were amended in order to decentralize the authority to approve "simple" experiments. Authority was delegated to the Helsinki Committee and to the directors of hospitals, thus allowing more resources to be allocated to supervision and enforcement by the Ministry of Health. In addition, efforts are being made to pass the aforementioned regulations as primary legislation.

Prohibition of Human Cloning

99. The Prohibition of Genetic Intervention (Human Cloning and Genetic Manipulation of Reproductive Cells) Law, 5759-1999 is an innovative statute. The law prohibits, for a period of five years, the performance of any act or intervention regarding human cells which is intended to clone a human being or create a human being by use of genetically altered cells.

The law prescribes that the five-year period should be used to examine the consequences of such acts. For that purpose, the legislator has established an Advisory Committee, to pursue developments in medicine, science and biotechnology in the area of genetic experiments on human beings. The Advisory Committee shall submit a yearly report to the Minister of Health, to advise the Minister on the matters set out in the law, and to make recommendations to the Minister regarding the force of the prohibitions set out in the Law.

To enable the law to advance at the same rate as scientific developments and not prevent them, the Minister of Health is authorized, after consulting with the advisory committee, to permit, by regulations, certain acts of genetic interference originally prohibited by the law. Those acts would be subject to attaining a permit in advance, and certain conditions may be imposed. Criminal penalties of two-years imprisonment have been set for breach of provisions of this law.

It should be emphasized that the main purpose of the law was declaratory. At present, there are no experiments taking place in Israel aimed at cloning human beings. However, the legislator thought it important to declare that at this stage, prior to the full examination of all moral, legal, social and scientific aspects, the cloning technique is not a proper and desirable method of bringing a child into the world.

Article 8 – Prohibition of Slavery

100. **General.** As described in detail in the Initial Periodic Report Israeli law does not allow hard labor to be imposed as the punishment for a crime. Incarcerated convicts are required to work at tasks or jobs which do not involve hard labor (Section 48 of the Penal Law, 5737-1977) unless the Exemptions Committee of the Prisons Service releases them from the obligation for reasons of rehabilitation, health or other reasonable grounds.

101. Due to a lack of suitable employment, the prisoners' workforce is not being utilized to the fullest capacity.

Between November 1998 and the end of 1999, there was a 20 per cent increase in the number of employed prisoners. This increase derives, mostly, from the increase in the employment of prisoners in private entrepreneurs' factories.

102. The Prison Service work scheme operates in two major areas: On one hand it focuses on imparting the prisoners with professional skills. For that purpose, professional training courses are held within the prisons by the Ministry of Labor and Social Affairs, granting the graduating prisoners professional diplomas from the ministry. On the other hand, it deals with the employment of prisoners within the prisons.

103. About 500 prisoners are employed in 17 branches of private entrepreneurs' factories within the prisons' industrial zones. The terms of the employment of prisoners are similar, and are set by agreement between the Prison Service and the private entrepreneur. Payment in these factories is determined by the worker's productivity. In addition, approximately 350 prisoners are employed within the prisons in assembling different products. This is easy work, and is performed by prisoners who are not skilled assembly workers, and are thus unable to work in the commercial factories.

104. When approaching the date of his release, the working prisoner joins an individual or a collective rehabilitative program. The prisoners in these programs are employed in factories outside the prison. At this time, about 300 prisoners are employed in such rehabilitative programs.

105. The prisoners employed in the private entrepreneurs' factories receive a fixed salary, slightly lower than the minimum wage .The Prison Service pays prisoners on a set date every month, even when the private entrepreneur has not yet provided the actual pay.

Foreign Workers

106. **General.** During the last six years, the number of foreign workers employed in Israel, with or without legal permit, has increased considerably. Thus, the employment of foreign workers has gained significance in the realm of labor, employment and welfare in Israel. The recent legislation regarding foreign workers reflects two major aims of the Israeli government: the reduction of the scope of foreign workers employment within the Israeli economy, and providing enforceable legal protection of the rights of foreign workers. While the past legislation used to deal only with the criminal aspect – punishment of those who employ foreign

workers or act as agents without an appropriate license, the amendments the Foreign Workers (Unlawful Employment and the Securing of Suitable Conditions) Law, 5751-1991, have introduced three main additional aspects. They are dealing with securing the foreign worker's rights, the imposition of compulsory fees on employers of foreign workers, and the necessity of imposing more severe punishment for violation of the law.

107. **Securing Foreign Workers Rights.** Although the majority of the rights of foreign workers were already defined in various labor laws prior to the recent amendment, there was a growing necessity to combine them all under specific legislation. The reason was, *inter alia*, that there were objective difficulties experienced by foreign workers due to their lack of familiarity with the Hebrew language and the standard conditions of work in Israel.

Among the rights which were granted to foreign workers is the requirement for a labor contract detailed in writing in the foreign worker's language, with a translation into Hebrew. An additional improvement is the obligation to provide medical insurance for the worker at the employer's expense, since even though the Employment Service Law has required employers to insure their workers as part of the employment conditions, this was, until now, mainly an administrative arrangement. Finally, the new amendment contains an obligation to provide proper lodging and to ensure the welfare of foreign workers, both at the expense of the employer.

In addition to these rights, employers are obliged to submit, to the payment division of Employment Service, monthly reports regarding the payment of wages for every foreign worker employed. Along with the contract of employment, they are also obliged to keep, at their place of work, a copy of the medical insurance, wage slips and a register of each worker's hours of work and rest.

108. **The Necessity to Impose Severe Punishment for Violation of the Law**. Fines under the law were raised up to NIS 80,000 and nine new offenses were added, mainly for violation of foreign workers' rights. Another section provides foreign workers with protection against any attempt made by the employer to harm their wages and work conditions due to the workers' complaint regarding deprivation.

The range of liability for violations of the law was also broadened to cover contractors active in this field, those who arrange living conditions, medical insurance, wages, etc.

The supervision authority of the inspectors enforcing the law was also defined and expanded. Under the amended law, inspectors now have the right to seize documents, such as wage slips and registers of work and rest hours, at the place of work if they are needed in order to prove whether the law has been violated.

At the same time, the Employment Service Law, 5719-1959, was amended and the ban on private agencies to exact payment from workers was expanded. Now, a private agency may not receive, collect or charge any payment directly or indirectly from workers, or from anyone acting on their behalf in Israel or abroad.

109. According to data supplied by the Employment Services, the number of permits issued in 2000 to employ foreign workers amounts to 72,445. Estimates of the Central Bureau of

Statistics indicate that around 150,000 workers are presently employed in Israel of whom many are illegally employed. Work permits are issued for a limited period of time and apply only to that particular worker. No family members are entitled to accompany him.

110. According to data supplied by the Ministry of Interior the following are the countries of origin of the majority of foreign workers:

Europe	Asia	Africa	South and Central America
Poland	Philippines	Ghana	Columbia
Bulgaria	Thailand	Nigeria	Bolivia
Romania	India		Ecuador
Yugoslavia	China		Chile
The former	USSR		Brazil

111. No bilateral agreements regarding issues of foreign workers have been signed between Israel and these countries of origin.

112. The Ministry of Labor and Social Affairs distributes an informative leaflet in several languages for workers arriving at the airport. The leaflet lists employers' obligations, and informs workers about the existence of a "hot line" for complaints. Additional relevant information is being distributed to foreign workers by NGOs.

113. The law stipulates that employers are obligated to provide foreign workers, at their expense, with medical insurance according to a basket of services which is presently being prepared by the Ministry of Health.

114. A collective agreement was recently drawn up in the building sector between the contractors and the New General Federation of Labor (Histadrut), with a special appendix defining work conditions regarding foreign workers in the building sector.

115. Administrative fines for violation of the law were raised in 1998 from NIS 2,000 to NIS 5,000.

116. **Trafficking in Women.** See above, under Section 61.

Article 9 – Liberty and Security of Person

Arrest and Detention

117. **Notification of Arrest.** If a person is arrested, notice must be given promptly to a friend or relative, who can reasonably be located, unless the detainee asks that such notice not be sent. At the request of the arrested person, notice will also be sent to an attorney of his or her choosing, or to one of the defense attorneys appearing on a list drawn up by the Bar Association and presented to the suspect. Furthermore, an arrested person without means is entitled to

representation by the Public Defender's Office. An application on his or her behalf shall be sent to the Public Defender's Office by the police as soon as possible. For further details, see section 235 of the Initial Periodic Report.

118. **First Judicial Hearing.** In nearly all cases, a person who is arrested, other than in the presence of a judge, and whom the officer-in-charge at the police station does not release, with or without bail, must be brought before a judge as soon as possible, and at most within 24 hours of the arrest. If that is not done, the arrested person must be released. The arrested person or his or her representative may immediately file a motion to release him on bail, in which case the judicial hearing may also take place before the 24-hour period has elapsed.

119. At the initial judicial hearing, which usually takes place before a single judge of the Magistrate's Court, the judge must first review the evidence brought by the police to see if there are indeed reasonable grounds to suspect that the detainee in fact committed a crime. The detainee or his counsel may cross-examine the police officer appearing on behalf of the state in this regard. In addition, the court must decide whether or not there exist legitimate grounds to keep the suspect in detention. Detention might be ordered for the following reasons:

120. To ensure the completion of the investigation or judicial proceedings or serving the sentence if there are reasonable grounds to believe that upon release the suspect may interfere with proceedings, flee, conceal property, influence witnesses or harm evidence;

A. To ensure protection of the public if there are reasonable grounds to believe that the suspect will endanger human safety, public safety or state security;

B. In exceptional cases, to allow for interrogation procedures which could not be conducted unless the suspect is held in detention".

121. **Period of Arrest before Indictment**. In the event the court does not release the suspect at the initial hearing, it may order continued detention for a period of up to 15 consecutive days. If at the end of this period, the police still wish to keep the suspect in detention for purposes of the criminal investigation, another hearing is held, and the court's decision is based on the standards noted above. However, the longer the detention, the more weighty the evidence that the suspect actually committed the crime must be, in order to justify extending the remand. The total period of detention based on police requests may not exceed 30 days. However, arrest for the purposes of investigation where only this ground exists may in no case exceed 15 days. Detention may be extended beyond the 30-day period only by a decision of the court upon a special motion signed by the attorney general.

122. **Court-Appointed Counsel.** Prior to the filing of a charge sheet, Israeli law requires court appointment of legal counsel for a person in detention in cases where he or she is mentally-ill within the purview of the Criminal Procedure [Consolidated Version] Law, 5742-1982, section 15 or the Mentally Ill Treatment Law, 5751-1991, section 18, or where he or she is under sixteen years of age, or when it is necessary to take testimony prior to filing the charge sheet and the detainee is either blind, deaf, dumb or mentally disabled, or when the detainee is suspected of murder or another offense bearing a penalty of ten years or more (Criminal Procedure Law, section 15(a).

In cases where there is no obligation to appoint legal counsel for a detainee, a court may decide at its discretion to appoint counsel if the detainee has insufficient financial means to do so, if the offense involved bears a penalty of at least ten years' imprisonment, if the detainee is blind, deaf, dumb or mentally incapacitated, or if for any other reason the court deems that the detainee is unable to manage his own defense adequately. A detainee without means is entitled to representation by the Public Defender's Office, even without being appointed by the court. For further details on this subject, see article 246 of the Initial Periodic Report.

Arrest and Detention of Armed Forces Personnel

123. Following the enactment of Basic Law: Human Dignity and Liberty, the arrest procedures under the Military Justice Law, 5715-1955 had to be amended to better suit the new legal circumstances. The first attempt to amend the Military Justice Law that an IDF soldier can be held in arrest for 96 hours before he is brought before a judge (as opposed to civilians, who, under sections 17 and 29 of the Criminal Procedure Law (Enforcement Powers – Arrest) must be brought before a judge as soon as possible, and at most within 24 hours of the arrest, or be released). That amendment was struck down by the High Court of Justice, which accepted a petition claiming that the 96 hours arrest-without-trial period is disproportional, and thus inconsistent with Basic Law:Human Dignity and Liberty (H.C 6055/95 *Zemach v. Minister of Defense).*

124. Consequently, the Military Justice Law 5715-1955 was re-amended, reducing the maximum period a soldier can be held in arrest before he is brought before a judge to 48 hours.

The Lebanese Detainees:

125. The HRC, in its comments on Initial Periodic Report, expressed concern over the administrative detention of persons who did not personally threaten state security, but were kept as "bargaining chips" in order to promote negotiations with other parties on releasing captured Israeli soldiers or the bodies of deceased soldiers.

126. Over the years 1984-1987, a number of Lebanese civilians were arrested and tried in Israeli courts of law. Each was found guilty of crimes against the state and sentenced to prison for a fixed number of years. After the Lebanese prisoners had served their sentences in Israeli prisons, they were not released. Rather, the Minister of Defense ordered that they be held in administrative detention.

127. The prisoners were detained for the purpose of being used as "bargaining chips" for negotiations with Islamic terrorist militia groups believed to be holding, or having information about IDF soldiers missing in action in Lebanon. In 1994, after the president of the district court extended their administrative detention for another six months, a number of Lebanese prisoners submitted an appeal to the Supreme Court, arguing against their use as "bargaining chips". The Supreme Court, sitting in a panel of three judges, rejected the prisoners' appeal by a vote of 2-1.

Subsequently, the prisoners submitted an application for further hearing, which was accepted. It was decided that the case would be heard by an extended panel of nine judges. On April 12, 2000, the Supreme Court reversed its previous judgment (Criminal Further Hearing

7048/98 *Anonymous v. The Minister of Defense*). In a 6-3 vote, the court held that the Minister of Defense does not have the authority to place a person in administrative detention when the person does not pose a threat to national security and the sole purpose for his detention is to use him as a "bargaining chip".

The majority held that due to the significance of protecting human dignity and freedom of the person, the proper balance between civil rights and national security is such that the law must be interpreted in a way that does not give the Minister of Defense the authority to place someone in administrative detention as a "bargaining chip", and that such an interpretation is also required by International Law. Moreover, the Supreme Court held that the prisoners' detention would have been unlawful even if the Minister of Defense had the aforementioned authority, since it was not based on sufficient evidence to prove that holding the prisoners in administrative detention would lead to the release of Israeli prisoners of war and soldiers missing in action.

128. Following the aforementioned decision, The High court of Justice dismissed a petition submitted by the family of Ron Arad, an Israeli airman missing in action which argued against the release of the Lebanese prisoners (*H.C. 2967/00 Arad v. The Knesset et al.*). The Minister of Defense ordered the immediate release and return to Lebanon of the eight Lebanese appellants in the aforementioned *C.F.H 7048/98 Anonymous* case, along with five other Lebanese prisoners. Prisoners who were found to pose a threat to the security of the State of Israel were not released. Accordingly, the Minister of Defense determined that prisoners Mustafa Dirani and Abed Al-Karim Ubeid, who were directly responsible for the launching of numerous terrorist attacks against the State of Israel and its citizens, pose a direct threat to the security of the state and should not be released. They were remanded to administrative detention, an action which was confirmed by the District Court, and lately reaffirmed in an appeal to the Supreme Court.

Article 10 - Treatment of Persons Deprived of their Liberty

129. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 11 – Freedom from Imprisonment for Breach of Contractual Obligations

130. As described in detail under sections 308-314 of Israel's Initial Periodic Report, Amendment no. 15 of the Execution Law (S.Ch. 1479 (5754), p. 284) introduced a new regime regarding investigation of a debtor's means and, on the whole, severely narrowed the availability of imprisonment orders, in accordance with the supreme court judgement in H.C.J 5304/92 *Perah Association v. Minister of Justice et al.* (see section 309 of the Initial Periodic Report for further details). Under the amended section 70 of the Execution Law, Prior to issuing an imprisonment order, the Chief Execution Officer must hold a hearing in the presence of the debtor, in which the debtor is examined regarding all assets on the basis of an affidavit filed previously. If the debtor patently refuses to comply with the execution proceedings, for example by refusing to file an affidavit regarding his assets, then the Chief Execution Officer may order his imprisonment. During the investigation of the debtor's assets, the Chief Execution Officer may order the debtor to pay monthly instalments based on his ability to pay, or, if the debtor requests a long-term schedule and waives secrecy of his financial records, the Officer may

declare that the debtor is "limited in means". Once this status is conferred on the debtor, his or her name is entered into a special register at the Execution Office, and he or she may be restricted from using credit cards or from serving as a manager or director of a limited liability company.

One result of the amendment to the Execution Law, discussed above, was a sharp decline in payments by recalcitrant debtors. Debtors usually chose not to attend the investigation of assets hearing, in order to avoid the risk that the investigation reveals their ability to pay the debt, thus exposing them to the risk of imprisonment.

On 19.4.1999, the Execution Law was amended (Amendment no.19), in order to promote collection of debts while ensuring that debtors are not imprisoned for the inability to pay them, but rather only in cases in which the debtor has the ability pay but refuses to do so. This amendment creates an incentive for the debtors to attend the investigation of means, by allowing the imprisonment of a debtor for refusal to attend the investigation. According to the amendment, within 20 days after receiving the notice of warning – a document opening the execution procedures – the debtors are to report to an execution office of their choice, at the time most convenient for them (within the office opening hours). To ensure that the warning is served to the debtor in a proper manner, the amendment prescribes a special procedure of "*full service*" – the warning must be served to the debtor or to a relative who resides with him, in an actual service or by registered mail. Only then, the execution officer can file for a warrant of arrest. In addition, the notice of warning was translated to Arabic and to Russian, to guarantee that most debtors are able to read it in their mother tongue.

A debtor who, after receiving the notice of warning, filed an order of payment, attaching the relevant documents, will be exempted from reporting to the execution office.

Article 12 – Freedom of Movement

131. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 13 – Expulsion of Aliens

132. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 14 – Right to Fair Trial, Judicial Independence

133. An amendment to the Criminal Procedure (The Right to a Hearing) Law 5742-1982, enacted in 2000, compels the State Attorney's Office to inform a suspect regarding an intention to press charges against him in all criminal offences aside from misdemeanors.

The suspect has the right to a hearing conducted by a district attorney or any person authorized by the district attorney. In addition, the amended law provides that no formal charges will be pressed against a person suspected of committing a crime who requested to exercise his right to a hearing, before he has been given a reasonable opportunity to have a hearing.

134. The Civil Procedure (The State as a Litigant) (Amendment) (Granting an Injunction and Exercising a Judgement Against the State) Law, 5779-1998 has been amended, and unlike before now makes possible the granting of an injunction against the state. It is also possible for a court to grant such an injunction *ex parte* in cases where the plaintiff might suffer severe or irreparable damage. Thus, the law further reduces state immunity.

Preliminary Appellate Procedure (*Kdam Bagatz*)

135. The preliminary appellate procedure is an administrative practice, which enables the public to submit written complaints and demands regarding administrative actions of government agents and agencies. The practice takes place prior to submitting a petition to the High Court of Justice. In many cases the answers given by the government satisfies the person who sent the complaint, thereby making it unnecessary to go to court. This process is administrated by the High Court of Justice Department in the Ministry of Justice, which is responsible for representing the different State agencies in petitions to the court. This practice is intended to assist the public, and also to reduce the extremely large number of cases waiting to be dealt with by the Supreme Court and the Ministry of Justice. The department's attorneys attempt to resolve the public's requests by contacting the appropriate state agencies and conducting a preliminary inquiry. The process is beneficial for all sides involved by saving valuable time, energy and money. Hundreds of complaints are processed in this manner every year.

The Public Defender's Office

136. The Public Defender's Office (PDO), established by legislation in 1995 (for further details, please see section 388 to the Previous Report), has substantially expanded its reach in the course of the last 3 years. The first PDO office was opened in the Tel-Aviv/Central judicial district in June 1996. Gradually, PDO offices were opened in all the remaining four judicial districts – Jerusalem, Be'er-Sheva, Haifa and Nazareth, In addition to the establishment of a National PDO.

In 2000, the PDO has provided legal representation in approximately 25,000 cases, over the 5 judicial districts. The PDO employs about 50 public defenders ("Internal Counsels"). In addition, it employs about 750 private counsels, providing representation on its behalf. Private counsels included in the list of public defense counsels were carefully chosen, and are subject to supervision by the Internal Counsels.

The Defense Counsel Law 5756-1995 entitles minor defendants or detainees to representation by a public defender, without being subject to an inquiry regarding their financial means. In the past, the vast majority of minors defendants tried before the Youth Courts had appeared without counsel. In 1999, Following a thorough research conducted by the Consulting and Legislation Department at the Ministry of Justice, the Minister of Justice has enacted regulations, entitling minors to a public defender, under section 18(c) to the Defense Counsel Law. As a result, special youth departments were established in all districts of the PDO, and at present, most minors charged with criminal offences receive representation from specialized public defenders. The enactment of these regulations has brought about a fundamental change in the realization of minors' rights in criminal procedures.

In 2000, the Minister of Justice, in recognition of the importance of the right to proper legal representation, has expanded the scope of entitlement to representation by the PDO in regulations, endorsed by the Knesset Constitution, Law, and Justice Committee in August 2000. Under the regulations, already applied in the Tel-Aviv-Central, Jerusalem, Be'er Sheva and Nazereth judicial districts, minors and detainees facing criminal charges are entitled to representation by a public counsel. The Ministry of Justice intends to apply the regulations to the Haifa judicial district by 2001, thus completing the application of these regulations, which had started in 1999.

However, Data recently gathered by the PDO, from a sample of close to 2,000 cases litigated in the magistrates' courts of Tel-Aviv, Natania, Acre, Zefat, Ashdod and Hadera, shows the national average rate of defendants appearing without representation to exceed 50%. Many of these defendants are consequently sentenced to substantive periods of incarceration. Thus, it is clear that the efforts to prevent defendants from having to appear before a court without proper representation are not yet fully accomplished. The Ministry of Justice, in conjunction with the PDO, are working to further expand the right to a public counsel, in hope to accomplish more progress in this area during the course of 2001.

Alternative Dispute Resolution

137. The National Center for Mediation and Conflict Resolution was established as an independently functioning Unit of the Ministry of Justice in 1998. The decision to set up the center was taken by the Minister of Justice, with the approval and support of the chief justice of the Supreme Court, the Honorable Aharon Barak.

Mediation and Alternative Dispute Resolution (ADR), as an alternative methods to litigation and the resolution of disputes by a decision-making body, encourages the parties to a dispute to negotiate with one another and reach an acceptable solution while allowing them maximum control over the process and its results.

The establishment of a National Center for Mediation and Conflict Resolution within the Ministry of Justice is aimed at ensuring that the development of mediation and ADR in Israel is undertaken by a professional, impartial organization, on the basis of objective criteria, international experience and the particular needs of Israeli society. Court systems, public institutions, community organizations, the educational system and the business sector are some of the segments of society to which the center's work is directed.

Article 15 - Prohibition of *Ex Post Facto* Laws

138. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 16 – Recognition as a Person Before the Law

139. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 17 – Freedom from Arbitrary Interference with Privacy, Family, Home

140. **The Protection of Privacy Law, 5741-1981**. According to information gathered by the Registration of Private Investigators and Guard Services Department of the Ministry of Justice, in the year 2000 the licenses of seven private investigators who had been convicted, *inter alia*, of offenses under the Protection of Privacy Law, 5741-1981 were not renewed.

Search and Seizure in Criminal Proceedings

141. Following the enactment of the Criminal Procedure (Enforcement Powers – Physical Search of a Suspect) Law, 5756-1996, Central Command Orders, ensuring rights of the person, were published in 1998 to implement the law, on the following subjects:

14.05.01 Internal physical examination of suspect.

14.05.02 External physical examination of suspect.

14.05.03 Internal and external physical examination of a person who is not a suspect.

Search of a Person's Home

142. The Israel Police Force is authorized to perform a search of private property, including the person's house, by means of a court ordered search warrant when:

(a) The search is necessary to secure the introduction of an object for the purposes of an investigation, trial or other proceedings;

(b) There are grounds to believe that stolen property is being held at the particular premises or that an offense has been committed therein or that such place is being used or is planned to be used it for an unlawful purpose;

(c) There are grounds to believe that an offense has been committed or that an offense is being planned against a person situated on such premises.

Applications for a search warrant are generally heard *ex parte*.

The police may perform such a search, even without a court order, in the following circumstances:

(a) A police officer has grounds to believe that a serious crime is being committed on the premises or that a serious crime was recently committed therein;

(b) Where the occupier of the premises calls for police assistance;

(c) Where the person found on the premises calls for police assistance and there are grounds to believe that an offense is being performed therein;

(d) Where a police officer chases a person evading arrest or escaping from lawful custody.

Electronic Surveillance: Wiretapping and Eavesdropping

143. **Eavesdropping by the Israel Police Force**. As described in detail in Israel's Initial Periodic Report, there is specific legislation which regulates the issue of Electronic Surveillance. The police submits to the Constitution, Law and Justice Committee of the Knesset an annual report on wiretapping performed by it, specifying the number of permits given to the police by the court, the number of permits given and not implemented, the number of applications for permits refused by the court and the number of telephone lines subject to wiretaps each year.

Furthermore, the police sends the attorney general a monthly report in which it specifies the names of persons subject to wiretapping, the telephone numbers being wiretapped, the duration of the wiretapping and the offenses attributed to the person being wiretapped for which reason the wiretapping was initiated.

144. **Scope of Illegal Activity.** The Israel Police Force investigated the following offenses against the Secret Monitoring Law 5739-1979 (the Wiretapping Law).

In 1998 – 55 files were opened, 43 of which were closed, two defendants were convicted and nine cases are still in judicial proceedings.

In 1999 – 50 files were opened, 34 of which were closed, and 11 are still in judicial proceedings.

In 2000 (until the end of August) – 31 files were opened, 16 of which were closed and five are still in judicial proceedings.

Protection of Personal Information in Databases

145. The Israel Police Force Districts (not including the Judea and Samaria District) opened the following investigative files on suspicion of offenses under section 8 of the Protection of Privacy Law 5741-1981:

In 1996 – two files were opened – one of these was closed and the other was a conviction.

In 1997 – one file was opened and then closed.

In 1998 – four files were opened – two of them were closed, one of them was a conviction and one is still in judicial proceedings.

In 1999 – three files were opened – two of them were closed and one is still open.

In 2000 (until the end of August) – no files were opened.

Information Regarding Criminal Record

146. The Israel Police Force maintains a database including two types of records – a "crime register" and "police records". The crime register includes data as specified in section 2 of the Crime Register and Rehabilitation of Offenders Law, 5741-1981 (in this article "the Law").

Police records include mainly information on pending and closed criminal files.

The police, the Israel Security Agency, the Military Police and the IDF Field Security Department (as a group, the "Agencies") have direct access to the crime register and may transmit information found therein among themselves.

The police transmit crime information from its records to other Agencies entitled to receive such information under Law, for the purpose of carrying out their functions, at their request and to the extent prescribed by Law. Similarly, the other Agencies may transmit such information within the restrictions prescribed under Law.

The Agencies entitled to receive information from the crime register are also entitled to receive information about pending files.

A competent prosecutor, the Agencies, warrant officers and scientific investigators may also receive the records on closed files.

Records of files closed with a finding of no guilt are removed from the police records and no longer appear in the name of the person to whom the entry related.

A person against whom there is an entry of a file which was closed for lack of evidence or for lack of public interest may apply to the head of the Investigations Department at the National Police Headquarters to remove the record.

A decision of the head of the Investigations Department shall be reached by taking into account the following:

- The substance and circumstances of the offense;
- The time which has elapsed since the incident involved in the record,
- The number of and quality of the complaints recorded against the accused;
- The personal circumstances of the accused.

The Law prescribes statutory prescription periods at the end of which a criminal conviction lapses. Some of the Agencies entitled to receive criminal information may not be able to receive information about such conviction .The prescription (limitation) period varies according to the severity of the penalty.

The Law also prescribes provisions on "deletion" of convictions. When the conviction is erased, information about such conviction may be transmitted to a limited number of agencies, as specified in section 16 of the Law.

As a general rule, a conviction is regarded as a deleted conviction ten years after the termination of the prescription period.

In certain circumstances, such as on the conviction of a minor for a misdemeanor, the deletion periods are shorter.

As a general rule, a person whose conviction has been "deleted" shall be deemed, for the purposes of any law, to have not been convicted and he is not bound to respond to questions concerning the said conviction. Any evidence disclosing the fact of conviction which was deleted from the register, as stated, is not admissible in a court proceeding nor before a public employee or employee of a public entity, unless it was knowingly disclosed by the person whose conviction was deleted. Officials may receive information on a deleted conviction and they may, obviously, take it into account for the purpose of fulfilling their functions.

Unlawful Attacks on Honor or Reputation

147. On November 5, 1998, the Prevention of Defamation Law 5725-1965 was amended, providing that courts may, in certain circumstances, order the payment of compensation in the amounts fixed in the law for defamation, even without proof of damage.

148. Reproductive Privacy – Abortion

Table 1: Applications for Abortions, Approvals and Actual Terminations (in absolute numbers)

	1995	1996	1997
Applications	18 903	20 408	20 550
Approvals	17 528	19 228	19 465
Terminations	16 609	17 987	18 596

Table 2: Rate of Actual Termination of Pregnancy

	1990	1991	1992	1993	1994	1995	1996	1997
Per 1,000 women aged 15-49	13.6	12.9	12.9	12.4	11.8	11.9	12.6	12.7
Per 1,000 live births	150.1	149.1	148.9	145.1	140.1	142.1	148.2	149.4

Table 3: Terminations of Pregnancy in Hospitals, by Cause, 1996 (percentage)

	Total	19-	20-24	25-29	30-34	35-39	40+
Woman's age	11.1	17.8				4.2	70.1
Out of wedlock pregnancy	51.6	77.3	78.5	53.8	40.0	28.5	10.8
Malformed fetus	13.5	1.9	7.7	17.8	22.0	22.2	7.5
Danger to woman's life	23.0	3.0	13.5	27.3	43.7	43.7	11.6

149. **Protection of Genetic Data**. The Genetic Information Law 5760-2000 was recently enacted. This law was designed to protect the right to privacy of genetic information. It includes provisions as to the confidentiality of data gathered by means of genetic examinations, prohibits, under certain conditions, discrimination in employment and in insurance as a result of genetic data; and includes specific provisions as to the use of genetic data for crime solving and in the identification of corpses.

150. **The Right to a Dignified Death.** On May 1, 2000, The Minister of Health appointed a committee, headed by Prof. Avraham Steinberg of the Sha'arey Tzedek Medical Center in Jerusalem, to advise him on legislation which will provide an answer to the medical-ethical dilemma presented by the treatment of terminally-ill patients (the "Public Committee"). The Public Committee was appointed following an intensifying public debate on the issue of the right to die with dignity, together with several decisions given by the district courts and the Supreme Court, and legislation proposed by certain individuals. The general public in Israel has demonstrated great interest in this subject, which has medical, cultural, emotional, religious, moral and legal consequences, and is not within the Israeli consensus. The Public Committee consists of four sub-committees – Professional, Philosophical, Legal and Religious – and its recommendations to the Minister of Health are due within the year 2001.

Community Housing for People with Disabilities

151. One of the most severe wrongs against people with disabilities in Israel is the clear preference for institutional frameworks as opposed to the state providing them with special adequate housing within the community. This is the case particularly for developmentally disabled and mentally ill people. Thousands of people with disabilities in Israel live in crowded institutions, under relatively poor conditions. It has been argued that the present position is inconsistent with the principle of equality established by the case law of the High Court of Justice, and which is now incorporated in Basic Law: Human Dignity and Liberty.

152. Leading professionals in this field have already determined that the quality of life and development of people with disabilities at all levels improves when they live in special housing within the community, in their natural environment. The situation in Israel stands in contrast to this:

(1) Out of 7,400 developmentally disabled people living outside their homes, approximately 6,000 of them live in 53 institutions. New institutions are continually being constructed. Families and associations wishing to exercise the

right of mentally retarded people to live in special community housing are curbed by the authorities for budgetary reasons. Institutional housing account for the lion's share of the budget allocated to housing for people with disabilities.

(2) 6,700 mentally ill people live in psychiatric hospitals. It is estimated that many of these people remain in such institutions because of lack of adequate special community housing frameworks.

(3) In March 1999, a Public Committee submitted a report on the condition of mentally ill holocaust survivors living in psychiatric hospitals in Israel. The findings were particularly grave.

(4) The general phenomenon of institutionalization also includes scores of people with physical disabilities living in institutions and even in hospitals.

153. In the face of the present reality, recent legislation enshrines the right of people with disabilities to live in their natural community. The Equal Rights for People with Disabilities Bill, 5760-2000 includes a chapter in relation to housing. Of the central provisions of the Bill in this area are those establishing the right of people with disabilities to live in the community and the obligation of the state to make this right a practical reality by the provision of personal assistance services.

154. A recent amendment to the Welfare (Treatment of Persons with Mental Disabilities) Law, 5729-1969 regarding the obligation of the state to allocate resources for housing frameworks and day frameworks for persons with mental disabilities, provides that when determining the type of housing framework, the assessment committee will give priority to community housing.

155. On July 5, 2000, the Rehabilitation of Mentally Ill People in the Community Law, 5760-2000 was enacted, establishing the right of a mentally-ill persons to a basket of community rehabilitation services in a number of areas, including housing, employment, completion of education, leisure and recreation.

For further information regarding the rights of people with disabilities, see article 26 below.

Demolition of Illegal Dwellings in Jerusalem

156. In its comments on the Initial Periodic Report, the HRC expressed concern over the practice of demolition of illegally constructed houses in the eastern neighborhoods of Jerusalem.

157. **Historical Background.** In the face of 3,000 years of history, it is noteworthy that the concept of East Jerusalem derives solely from the 19-year period between 1948 and 1967, when Jerusalem was a divided city.

From 1948 to 1967, under Jordanian occupation, the eastern part of Jerusalem was relatively underdeveloped. The western part of Jerusalem, on the other hand, was a modern

capital city, whose neighborhoods had developed since 1914 according to urban plans based on the city's special topography. Thus, in 1967, on the reunification of Jerusalem, significant gaps existed between its eastern and western parts.

The villages in East Jerusalem did not develop through urban planning, but as expansion of family settlements. Furthermore, the tendency was for small parcels of land to be owned by a variety of private landlords. Since land registration of the area was not systematic or up-to-date, ownership rights in many cases are unclear, and there are many instances of more than one claim to ownership to the same piece of property. Urban planning is based on land ownership. This requires re-designing and updating of the registration system relevant to the eastern neighborhoods of Jerusalem, prior to the preparation of final urban plans, as well as resolution of some of the conflicting claims. This is a process that also involves extensive surveying, and it is as yet incomplete.

In 1967, residents of East Jerusalem used wells to obtain water. Reunification of the city has necessitated the unification of the infrastructure, and today effective water and sewage systems are in place. Jerusalem's own water supply is only sufficient for 15-20,000 people. Infrastructure has to be planned further prior to any construction, and cannot be developed in response to building by individuals.

158. **Demographic Factors.** Natural increase in the Arab population has always exceeded that of the Jewish population. In 1967, the city's population consisted of 197,000 Jews (74.2%) and 68,000 Arabs (25.8%). In 1999, 429,000 Jews made up 69% of the population, while 193,000 Arabs made up the remaining 31%. Current plans are for 15,000 new housing units in the Arab sector and 35,000 in the Jewish sector Approximately proportional to the Arab percentage in the overall population.

159. **Cultural Characteristics.** The Arab tradition of building detached homes for the extended family on privately owned land is very land intensive in comparison to the apartment blocks which dominate the Jewish neighborhoods. In the Arab sector there are on average 11 people in 1.9 housing units per dunam (approximately 0.25 acre) while in the Jewish sector there are 19 people per dunam, in 5.9 units. Moreover, much of the public building in West Jerusalem is financed by donations from the Jewish Diaspora whereas public buildings in the eastern part of the city are financed only by the Municipality of Jerusalem and the Israeli government.

160. **Development of Infrastructure and Services.** City-center services, such as shopping centers and arterial roads, benefit residents from all parts of the city. Other services are locally based.

Recognizing that the future of Jerusalem as a united city depends to a large extent on the provision of municipal services on an equal basis for all sectors of the population, the Jerusalem Municipality has given priority to a development program for East Jerusalem, in conjunction with the Government of Israel. The total sum required in order to close the gap between the two parts of the city is estimated at NIS520 million (approximately 130 million $US).

In Jerusalem, the policy is to plan development in cooperation with residents of Arab neighborhoods. For example, in the Arab village of Tsur Baher, 400 units are to be built on government land and will be marketed by an Arab association. The area has been re-zoned in order to allow for more intensive construction.

At A-Sawaneh, a camp of homeless people was set up on land belonging to the Muslim *Wakf*, where a school for special education was planned. The *Wakf* allocated the land for the school, which was later built by the municipality, and is to be named after the late King Hussein of Jordan.

161. **Applications for Building Permits.** Informative leaflets, available both in Hebrew and in Arabic, give details as to the procedure required for applying for building permits. The same information is published on the municipality's Hebrew and Arabic web sites.

162. All building plans are equally subject to approval by the District Committee for Planning and Building, a governmental body.

163. The rate of application for building permits corresponds approximately to the proportions of the population. In the first half of 1999, 195 applications, which make 20% of the total number of applications, were received from residents of East Jerusalem. Of the 195 applications, 116 (60%) were granted. West Jerusalem residents submitted 791 applications, of which 553 (67%) were granted. Due to the application fee involved, many applications are not followed up – the applicants preferring to risk the fine, which might be imposed if the case is taken to court.

164. **Illegal Construction.** In West Jerusalem, building violations almost invariably consist of additions to a legal building, such as the addition of a room in courtyard or an attic within a roof space. In East Jerusalem, violations typically take the form of entire buildings constructed without a permit. Thus, demolitions in East Jerusalem are far more dramatic than in the western part of the city.

165. **Demolitions.** The policy of the Jerusalem Municipality is to issue demolition orders where buildings interfere with plans for public facilities such as schools or roads, where they pose a safety threat to their inhabitants, or where they interfere with the city's historical heritage. The Ministry of Interior also has the authority to demolish buildings, autonomous from the one given to the Municipality of Jerusalem, and a small number of demolitions initiated by the ministry take place every year. It should be noted that in both cases, demolition is never arbitrary. It takes place in accordance with due process and the rule of law, and allowing for the holding of a fair hearing, and the ability to appeal to the courts of law.

Table 1: New Buildings Constructed Without a Permit (By Neighborhood, East Jerusalem)

Neighborhood	1997	1998	1999
Issawiya	10	59	45
Shuafat	16	32	62
Wadi Joz	13	14	18
Ras Al Amud	10	65	41
Beit Hanina	27	39	100
A-Tur	12	43	35
Sheikh Jarrah	2	8	15
Old City	10	43	65
Tsur Baher	31	25	13
Um Tuba	6	19	35
Abu-Tor	35	19	6
Silwan	9	39	49
Jabel Mukhaber	11	65	38
Other neighborhoods (Sawahra, Um Lison, Walgia, Sheikh Sa'ad and others)	10	15	32
Total	**202**	**485**	**554**

Table 2: Building Offences – eastern and West Jerusalem (Jan.–Aug. '98)

	East Jerusalem	West Jerusalem
Violations Discovered	80,000 square meters*	10,000 square meters*
Means of Discovery	95% via inspection tours and aerial photos	98% via neighbors complaints
Type of Violation	• Construction of homes and entire buildings Construction on areas designated for roads or public use	• Addition to roofs or yards • Opening attics • Closing Balconies
Demolition Orders	30	15
Demolitions Carried Out	7	10

* a square meter is 10.85 square feet

** Main Causes of Building Offences in East Jerusalem:

- Avoidance of fee payments
- Inability to conform to planning conditions (e.g., designated area)

Table 3: Building Contour Plans Submitted for Approval

	East Jerusalem	West Jerusalem
15.11.98 – 31.12.98	91	77
1.1.99 – 30.11.99	440	543

Table 4: Requests Submitted for Building Permits

	East Jerusalem	West Jerusalem
1998	321	1 661
1999	325	1 544

Table 5: Building Permits Granted

	East Jerusalem	West Jerusalem
1998	265	1 508
1999	289	1 403

Table 6: Demolition Orders Carried Out

	East Jerusalem	Sawaneh Camp	West Jerusalem
1993	23		10
1994	7		4
1995	14		10
1996	8		4
1997	19		12
1998	13	30 Tents	13
1999	17		4
Total	**101**	**30**	**57**

Table 7: Building Offences – Cases Opened

	East Jerusalem	West Jerusalem
1998	575	351
1999	436	227

Table 8: Completed Projects in East Jerusalem, 1997- 1999

	Cost (in millions of NIS)
New roads	42
Improvements to existing roads	40
Water and sewage systems	40
Community centers	10
Other	47
Total	**179**

Article 18 – Freedom of Religion and Conscience

Religious Institutions

166. **Jewish Religious Councils.** As discussed in detail under sections 468-470 to the Previous Report, the state confers certain powers, at the local level, on Jewish Religious Councils, which are organized by law and funded in part by the State. Traditionally, the Religious Councils were comprised exclusively of Orthodox-Jewish representatives. On 1998, The High Court of Justice has ordered the appointment of non-Orthodox representatives on the religious councils of Jerusalem, Tel-Aviv, Haifa, Kiryat Tiv'on and Arad Municipalities (H.C.J.4727/97 *Meretz Party in Jerusalem Municipality, et al. v. The Minister of Religious Affairs*, P.D. 52(5) 241). However, the implementation of the court order is still pending.

Burial

167. **Alternative Civil Burial.** The access to alternative civil burial has been improved greatly since the 1998 submission of the Initial Periodic Report, following the enactment of the Right to Alternative Civil Burial Law, 5756-1996 (described under section 489 to Israel's Previous Report). On April 1999, the first alternative cemetery for Jews was opened in the city of Beer-Sheva (in the south of Israel), in accordance with the Right to Alternative Civil Burial Law. At the time of writing this report, other alternative cemeteries are not yet operational, but additional licenses for alternative burial services have been granted in Jerusalem and in Haifa.

168. **Headstone Inscriptions.** The right of engraving of Gregorian dates and Latin Letteres, in addition to Hebrew ones, on headstones in Jewish cemeteries was established and than reinforced in various judicial decisions. Following the enactment of the Right to Alternative Civil Burial Law, The Orthodox Burial Society (*"Chevra Kadisha"*) in Rishon L'zion refused to continue to allow the engraving of Latin letters and Gregorian dates on headstones, claiming that the existence of alternative civil burial cemeteries has alleviated the need to allow non-Hebrew headstone inscriptions in Jewish cemeteries. The *Chevra Kadisha*'s decision was challenged in an appeal to the Supreme Court. In a 2-1 vote, the Court accepted the petition (C.A 6024/97 *Shavit v. Chevra Kadisha Rishon L'Zion*).

169. **Equality in Funding.** On April 2000, The High Court of Justice has accepted a petition against the Minister of Religious Affairs, regarding inequality in the allocation of funds for Jewish and Arab Cemeteries. The High Court of Justice, stressing the importance of the principle of equality in the allocation of state funds, has ordered the Ministry of Religious Affairs to rearrange its cemetery budget, so that the Arab sector receives its fair share (H.C.J. 1113/99 *Adalah, et al. v. The Minister of Religious Affairs*). At the time of writing this report, the Court's decision has not yet been carried out.

Article 19 – Freedom of Opinion and Expression

170. **Political Expression.** *In H.C.* 6396/96, *Zakin v. The Mayor of Be'er Sheva*, P.D. 53(3) 289, the High Court of Justice has held that freedom of political expression is entitled to the highest degree of protection, both because it is of major social importance, constituting the foundation of the democratic government, and because it is exposed, more than any other form

of speech, to abuse by the government. Thus, it was held that a municipal regulation should be interpreted in accordance with the right to political expression, therefore permitting the hanging of political banners on private buildings without obtaining a special license from the mayor.

Broadcast Media

171. Whereas the Israel Broadcast Authority is funded by a license fee on all television owners and a tax on car owners in addition to sale of commercial broadcast-time , the new second television channel and local radio stations established under the Second Television and Radio Broadcast Authority Law, 5750-1990, are operated by private franchisees and funded through sale of commercial broadcast-time alone.

172. In 1994, the Second Authority for Television and Radio began to issue franchises for local radio stations around the country. By 1996, 14 privately-owned local radio stations were operating, under government supervision. In 2000, the Second Authority for Television and Radio published a tender in search of prospective franchisers for the operation of an additional commercial channel (the "Third Television Channel").

173. In recognition of the power given to the franchisees and the risks of concentrating ownership of the media in the hands of a small number of dominant economic enterprises with vested economic or political interests, the law places a series of restrictions on the franchisees of the second television channel, detailed under article 19 of the Initial Periodic Report. In a similar manner, no company may hold a franchise to broadcast on the forthcoming Third Television Channel if it also holds a franchise for cable or satellite broadcasts (section 40(B)(1) of the Second Television and Radio Broadcast Authority Law, 5750-1990).

174. **Freedom of Information**

The 1998 enactment of the Freedom of Information Law 5758-1998 has given a solid legislative basis to the public's right of access to information. The law prescribes a procedure for submitting requests and their handling and imposes several duties on the public authorities. These duties include, inter alia, the publication of periodic informative reports, and the appointment – from among the employees of each authority – of a Commissioner to be in charge of making information available to the public, of handling requests for information and of implementing the provisions of this law.

The main innovation of the law is in recognizing the right of an Israeli citizen or resident to receive information from public authorities, regardless of whether he or she has any personal interest in it, and without having to state a reason for the request. Moreover, section 12 applies the provisions of the Freedom of Information Law to persons who are not citizens or residents of the State of Israel, regarding information concerning their rights in Israel.

Similar to other such laws around the world, the right of access to information is not unlimited. Section 9 of the law lists several categories of information which must not or which does not have to be delivered. In addition, section 14 prescribes that the provisions of the law

shall not apply to certain security agencies and the information produced, gathered, or held by them. In addition, there are several circumstances listed under section 8, in which a public authority may reject a request for information.

If a request for information under the law is rejected, the applicant or a third party may, under section 17, submit a petition to the District Court (or, in exceptional cases, to the Supreme Court). Notwithstanding the provisions of section 9, the Court may order that all or part of the requested information be given on conditions which it shall prescribe, if it is satisfied that the public interest in the information's disclosure is greater than the reasons for rejecting the request, on condition that disclosure of the information is not prohibited by an enactment.

Article 20 – Prohibition of Hate Propaganda

175. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 21 – Freedom of Assembly

176. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 22 – Freedom of Association

177. **Forming Trade Unions and joining them.** Since the submission of the Initial Periodic Report, the legal protection of the right to organize trade unions has been boosted by some important judicial decisions.

In the case of *Mifealey Tahanot v. Israel Yaniv* (46/3-209 National Labor Court, November 1996) the court annulled the dismissal of two workers after finding that the real ground for dismissal was their initiative to organize a workers committee. In this case the company had no previous workers organization and the two employees had clear intentions of initiating collective bargaining with the employer. This landmark case was important in two respects. First, it laid down two alternative legal grounds for the recognition of the right to organize as a basic right: a) the right derives from the concept of human dignity entrenched in Basic Law: Human Dignity and Liberty and b) the right derives from the general right to equality, namely the prohibition to discriminate against workers on irrelevant grounds, such as involvement in organizational activities. This issue was developed in the *Delek* case discussed below. Second, regarding which remedy is available in case of a breach of this right, the court recognized its competence to issue a reinstatement order. This was seen as an important initiative. In Israeli case law, reinstatement at work is generally limited to dismissals in contradiction with a collective agreement, where a specific legal provision exists, and within the public service where norms of administrative law apply in addition to private contract law. This remedy had previously been ruled out by the High Court of Justice in private labor contract relations, in light of a provision in a contract law according to which a court should not order the enforcement of a personal contract. The novelty of the *Mifealey Tahanot* case lies in considering a breach of a basic right as a legal ground allowing the enforcement of a private labor contract.

This ruling was recently clearly reinforced in the *Horn & Leibivitz Transport Co. v. The Histadrut* case (99/323 National Labor Court, July 2000). A bus transport company dismissed a group of drivers who tried to organize themselves in a union, just after the New General Federation of Labor (*Histadrut)* had expressed its willingness to recognize it under its federation. (For further information regarding the *Histadrut*, see paragraph 566 to the Initial Periodic Report.) The regional labor court issued a temporary reinstatement order, until end of proceedings. The company appealed to the National Labor Court, which upheld the decision. The courts' rulings at both instances relied on prior decisions, which had recognized the right to organize in labor unions as a basic human right. Here again, the remedy of reinstatement was declared the most effective one in order to protect this right, since an employer might not be deterred by the threat of compensation alone when deciding how to respond to his employees' organizational activities.

Interestingly, the company then reacted by firing about a hundred more drivers, arguing that it had to close a whole department. The *Histadrut* then threatened to appeal to the court in a contempt of court proceeding. The conflict ended by the parties signing a collective agreement.

In the case of *Delek The Israeli Petrol Company v. The Histadrut* (98/4-10 National Labor Court), the court extended the consideration of the legal basis for the recognition of the right to organize, introduced in the *Mifealey Tahanot* case mentioned above. The court ruled in favor of protection of the workers' right to organize. It stated that –

> "... the right to organize protects the worker's dignity at the place of work, where he usually spends a third of his day. The individual worker has less power than the employer, and in most cases he is unable to conduct fair negotiations. Joining a workers' union bolsters the worker's strength and provides a balance in his negotiations with the employer... in many cases the individual worker's dignity will only be secured by joining a group of workers, i.e., a workers union"

The court also analyzed the right to organize as "a two-dimensional right, realized in the actions of both the group and the individual".

Finally, the court further developed the legal construction of the right to organize on the basis of the non-discrimination principle. The question arose in this case in light of the fact that the Delek company chose to dismiss, in the context of legitimate economic dismissal and in accordance with the collective agreement in force, mostly members of the representative labor organization at the place of work. Only a few employees who were not members of the said organization were dismissed. The court ruled that consideration by the employer of union membership, when deciding upon economic dismissals, equated to unjustified discrimination between workers.

178. **The Right to Form of a Trade Union.** Since submission of Israel's Initial and Initial Periodic Report, the right to form a trade union was further qualified in the landmark decision of *Tadiran Kesher Inc. et al. v. The Histadrut* (97/41-96 National Labor Court, February 1998). During the life of a collective agreement Tadiran, an Israeli company, underwent a structural change, dividing itself into three sub-companies. The question arose what should the bargaining

unit be. The workers wanted it to be a single one while Tadiran wanted to conduct three distinct bargaining units. A strike broke on this ground, and the Tadiran filed a motion for a temporary injunction ordering the workers back to work.

The court denied the motion. Labor Court President Adler looked for a proper balance between the basic right of employees to organize and to chose their organization, and the employer's basic right to property entrenched in Basic Law: Human Dignity and Liberty. The employer's prerogative to manage his business was, in this case, countered by the workers' basic rights. The court said:

> "When balancing between the workers' right to organize and the employer's right to manage his business, a special weight should be given to the workers' right because their fate is embedded in the rights that are to be entrenched in the collective agreements applying to them. The employer's right to be part of a change in the bargaining unit is a relative one and is subordinate to the condition that it is not intended to impair organizational rights of workers.... The employer and the labor union have therefore to agree on the structure of bargaining appropriate for them. In a democratic society there is great importance in granting dignity and liberty to each worker. An expression of this is a worker's power to participate in the determination of the bargaining unit to which they belong This includes the power to influence changes in the bargaining unit, by way of negotiations between the labor organization who represents the workers and the employer who provides them with work."

The court decided that until an agreement was reached on the determination of the bargaining unit, the regular rules regarding industrial conflicts would apply, and the workers' right to strike was upheld.

179. **Number and Structure of Trade Unions in Israel**. No notable change in the structure of labor movements in Israel has occurred since the submission of Israel's previous report. The *Histadrut* remains the largest and most representative workers' organization in Israel, and still refrains from disclosing exact numbers on membership.

180. For further information regarding the status of trade unions in Israel, please see this report regarding the Covenant on Economic, Social and Cultural Rights.

181. **The Right to Strike.** Since the submission of the Initial Periodic Report a significant decision was handed down in the case of *Mekorot Inc. v. The Histadrut* (99/19 National Labor Court, August 1999). Mekorot Inc. is a government corporation, responsible for the supply of water to most Israelis. The right of its workers to strike was contested in this case by the public employer on the ground that such strike would impair its ability to provide vital services. The court granted only a limited injunction against the strikers. It held that the right to strike is a relative one, which must be balanced against conflicting rights. Therefore the injunction was construed in a way that left some room for a strike but not at the price of leaving people with no water. It did permit the workers to work only within the limited scope normally in usage during the Sabbath and holidays. It also urged the parties to get back to negotiations and instructed them to report to the court within four days.

182. **Restrictions Placed on the Right to Strike.** Since the submission of the Initial Periodic Report an important decision was handed down, qualifying the implication of the classification a strike as "unprotected". An unprotected strike will usually result in a court injunction ordering returning to work. Nevertheless, this was not so in the case of *The Tel Aviv-Jaffa Workers' Organization v. The Tel Aviv-Jaffa Municipality* (97/41-92 National Labor Court, February 1998). Even though the strike in this case was held without respecting the normal "cooling-off" period requirement, the court "protected" it. In the midst of collective negotiations the municipality had tried to bypass the workers' union by hiring a private contractor to provide services normally provided by the municipality's employees. The court considered this kind of privatization as a unilateral act by the employer, especially threatening both the individual workers and the workers' organization at the place of work. The court therefore used its discretion not to grant the injunction. It should be mentioned that one of the judges in the panel issued a dissenting opinion, not refuting the court's power to use discretion but arguing that the circumstances did not justify such an exceptional step.

183. **Statistics on Strikes in Israel**

The figures presented in the Initial Periodic Report (in article 246) can now be updated as following

Year	No. of works to rule	No. of strikes and lock-outs (excluding works to rule)	No. of persons involved in strikes and lock-outs	Work days lost
1960		135	14,420	368 ,49
1965		288	90,210	207,561
1970		163	114,941	390,260
1971		169	88,265	178,621
1972		168	87,309	236,058
1973	54	96	122,348	375,023
1974	49	71	27,141	51,333
1975	62	117	114,091	164,509
1976	76	123	114,970	308,214
1977	57	126	194,297	416,256
1978	55	85	224,354	1,071,961
1979	97	117	250,420	539,162
1980	54	84	91,451	216,516
1981	59	90	315,346	782,305
1982	79	112	838,700	1,814,945
1983	47	93	188,305	977,698
1984	74	149	528,638	995,494
1985	64	131	473,956	540,232
1986	92	142	215,227	406,292
1987	89	174	814,501	995,546
1988	93	156	327,193	516,071
1989	58	120	209,841	234,073
1990	75	117	571,172	1,071,279
1991	52	77	38,776	97,923

Year	No. of works to rule	No. of strikes and lock-outs (excluding works to rule)	No. of persons involved in strikes and lock-outs	Work days lost
1992	64	114	211 833	386,658
1993	40	73	462,208	1,636,866
1994	38	75	106,047	792,533
1995	51	71	75,792	257,796
1996	28	75	124,215	190,146
1997				
1998	10	53	275,478	1,227,722
1999	33	67	293,057	1,564,827

Article 23 – Protection of the Family

Measures of Protection

184. **Social Insurance and Entitlements**. As reported in the Initial Periodic Report, all families residing legally in Israel, regardless of income, are entitled to a "child allowance", a monthly grant which increases with the number of children in the family. In January 2001, a family with one child received NIS171 a month (approximately $US43); a family with two children received NIS343; with three children - NIS 685; four children - NIS1,379; and five children - NIS2,235 per month. In 1999, 891,500 families received child allowances, amounting to 19% of the total benefits paid by the National Insurance Institution (NII). In 2000, 912,481 families received child allowances, amounting to 17.6% of the total benefits paid by the NII.

185. Until 1997, the NII followed a policy of setting off child allowances against any income tax debts of the parents. This policy had a disproportionate effect on poorer families. In 1997, the NII Regulations in this regard were amended and the provision under which the set-of policy was operated was nullified.

186. The NII is also responsible for the payment of income support benefits. In May 2000, the NII paid income support benefits to approximately 127,131 families which did not earn the minimum level of income as determined by the Income Support Law, 5740-1980, and which were not covered by other income maintenance programs. In November 2000, the NII paid income support benefits to approximately 132,448 such families.

Maternity and Paternity Assistance

187. As of April 2000, women who are unable to work due to a high-risk pregnancy receive the equivalent of their salary from the NII, up to 100 % of the average wage.

188. The "maternity grant" given to the mother immediately upon birth of her baby or to the adoptive parents, to help cover some of the initial costs of preparing their home for the baby, is currently equivalent to NIS1,269 (slightly over US$300) .

189. From the third child on, families receive an additional "birth allowance" for twenty months. The allowance is equal to a certain percentage of the average monthly wage, and decreases with time.

190. Presently, maternity grant is given only to women who give birth in a recognized medical facility. This legal situation is problematic especially to Bedouin women, who occasionally give birth outside these medical institutions. Several draft laws seek to extend the range of maternity grant receivers to include women who give birth not in an official medical institution. These draft laws are still in the primary stages of enactment. Another draft law in its primary stages seeks to prohibit the dismissal of a worker undergoing in-vitro fertility treatments (IVF).

New Reproductive Technologies

191. In 1996, the birth rate in Israel was 2.9 (2.6 among the Jewish population, 4.6 among Muslims population, 2.6 among Christians, and 3.4 among the Druze). There has been a decrease in birth rate, most notably among Muslim women.

192. Between the years 1985-1995, there was almost a hundred per cent increase in the amount of births by single women. It is also noted that there has hardly been any change in the total amount of births by women under the age of 24.

193. **Fertility Treatments**. In 1996, 12,345 cycles of IVF treatment were performed, resulting in 1,950 live births (15.8 per cent). Births resulting from IVF treatments constitute 2.1 per cent of all live births in Israel.

194. **The Halperin Committee.** At this time, ovule donation is only permitted under Israeli law in the case of a self-donation from a woman undergoing IVF treatment. Following an ongoing public debate on the subject, the Minister of Health decided, on February 29, 2000, to establish a public committee, headed by Dr. Michael Halperin, to examine the social, ethical, religious and legal aspects of ovules donation. The committee is looking, *inter alia*, at the legitimacy of ovule donation by a woman other than the one undergoing the IVF treatment, and the appropriate supervision and registration procedures of such process. The committee shall look into the need for legislation to regulate the rights and duties of all parties involved in such IVF process, including the resulting children, and will submit its recommendations as to any related subject it finds relevant. (More information about the actions of the committee can be attained from the Israeli Ministry of Health web site – www.health.gov.il).

195. **Surrogate Motherhood.** As of October 2000, 78 surrogacy agreements were approved, resulting with the birth of 26 children in 19 child births (due to the prevalence of twins). Two other surrogate mothers are currently pregnant. Twenty-five couples whose agreements had been approved terminated the process midway, or completed the surrogacy process but without getting pregnant. Two of the prospective parents gave birth to children unaided by a surrogate after the approval of their surrogacy agreements.

Family Violence

196. In recent years there have been significant changes in dealing with family violence, particularly with respect to the deployment of the Israel Police Force. There has been an emphasis regarding victims of the crime. In view of recognition of the basic characteristics of these offenses, such as the need for an immediate response in order to prevent the danger, the need to evaluate the risks at each stage of police handling, the need to exhaust police procedures, including preventing access to weapons, the basic need for cooperation with treatment agencies in the community, and more, it was decided to set up a separate investigation system within the police force, for the area of violence offenses between spouses. The objectives of setting up the system are the following: focusing responsibility, professionalism in the police response, and a link with community treatment agencies.

The family violence system began to operate at the beginning of 1999. 170 special investigators were allocated to this special system. These investigators underwent a special five-day training program which included the legal, investigative, social and emotional aspects of the issue.

We should note that out of the 170 special investigators, 120 investigators are engaged in this task (including nine in the Arab sector) and 50 more investigators are engaged in such investigations, in addition to their regular duties, so as to ensure that at each police station there are at least two investigators in this function.

Marriage

197. In its comments on Israel's Initial Periodic Report, the HRC recommended that international standards for the age of majority in its current review of the minimum marriageable age for men and women.

By the time of the submission of the Initial Periodic Report, women were able to consent to marry without their parent's or guardian's permission from the age of seventeen, whereas there was no minimum age for males to consent to marry. The Marriage Age Law, 1950, was amended in 1998, and in accordance with the amendment, the rules applying to female youngsters now apply equally to males. However, the minimum marriageable age for both men and women remain 17.

Section 5 of the Marriage Age Law, 1950, provided for two alternative grounds for judicial permission of under-age marriage. The amendment in 1998 added a third ground which permits a young male to marry, if the woman he wants to marry became pregnant or gave birth to his child.

Article 24 - Protection of Children

198. **General.** Since the submission of the Initial Periodic Report, Israeli State agencies and society have remained constant in their efforts in the protection of children. The State of Israel recently submitted its initial report under the International Covenant on the Rights of the Child. This comprehensive survey of the rights of children in Israel is provided as an appendix to this report.

Welfare Services maintain

199. The recently enacted the Rights of Children at Risk to Services Law seeks to establish the entitlement of children, classified as children at risk, to receive certain services, and the government's duty to provide those services. The scope of services the child and his family shall be entitled to will be determined according to the degree of risk the child faces. According to this law, committees in the local authorities will be responsible to ascertaining the child's risk level (i.e., the degree of services the child is entitled to) and to the forming of the treatment plan for the child and the family. This innovating law is establishing, for the first time, the child's right to receive the services rather than the state's duty to supply them to him. On one hand, it provides a definition of the risk levels. On the other hand, it imposes a duty on the local authorities to provide services according to risk level, regardless of the budget concerns of the local authority, or of the Ministry of Labor and Social affairs. However, the law limits the period during which the child is entitled to the benefits to one year in order to ensure a close watch over the status of the child and his family, and of the success of the intervention program prepared for them. The law also requires that the child be given a right of hearing during the discussions and that the child and his family will be able to participate in the preparing of the treatment plan. In addition, it gives precedence to services which allow the child to remain with his family.

200. **Welfare Services in the Criminal Process.** The Ministry of Labor and Social Affairs also bears primary responsibility for handling cases of juvenile delinquency, investigating allegations of child abuse and neglect not involving the family, and investigating minors under 14 years of age who are suspected, by the children's investigators of the Ministry of Labor and Social Affairs, of being victims and witnesses of offenses of prostitution and indecency, sex-related crimes and offenses of endangering life and health, or violence by a parent against his child. The law was recently expanded to additionally include offenses against the person under Chapter 10 of the Penal Law, 5737-1977, and offenses of endangering life and health and violence of any responsible person as defined in section 368A of the Penal Law against a minor for whom he is responsible. This expansion to the law came into force on January 1, 2001, although bills have been introduced into the legislative process to reduce the effect of this expansion.

201. In each case involving a juvenile criminal defendant, a case officer at the Juvenile Probation Service within the Ministry prepares a pre-trial report on the defendant's behavior, physical and mental health, and potential for rehabilitation, as well as post-trial sentencing and treatment recommendations.

202. In the past year, the police defined the function of an officer/prevention worker at each police station, whose function is to be employed in the area of prevention of offenses among minors. In the large part, these workers have an academic background in social sciences and/or behavioral sciences and some of them are longstanding juvenile workers. Furthermore, many additional positions have been allocated to the juvenile units, most of which are already manned, so that by the end of the year 2000 the juvenile system would have doubled in size compared to 1997.

Child Abuse

203. Since the submission of the Initial Periodic Report, several laws relevant to the issue of child abuse have been enacted: The Law of Evidence Revision (Protection of Children) (Amendment No. 6) Law, 5760-1999, which came into force on June 9, 2000, and provided, *inter alia*, that investigations regarding children under this law by child investigators of the Ministry of Labor and Social Affairs, would be recorded on video. An additional law recently enacted is the Law of Evidence Revision (Protection of Children) (Amendment No. 7) (Definition of Parent) Law, 5760-2000, which expanded on the definition of parent to allow the court to order that the testimony of a witness against his parent, in a sex-related crime, shall be heard not in the presence of the accused parent, so that it will also include a partner of a parent, a common law spouse of the parent, an adoptive parent and a guardian.

204. **Sexual Abuse.** A 1998 amendment to the Penal Law abolished the distinction between male and female minors as for the age of consent regarding the offences of sodomy and consensual illegal intercourse, setting it at the age of 14-16 for both genders. In addition, the amended law set a minimum penalty for severe sex offences – at least one-fourth of the maximum penalty for the offence, except in the rare cases where the court uses its discretion to reduce the sentence.

205. **Child Prostitution.** Amendments to the Penal Law from 1998 made the advertisement of prostitution services given by minors (section 205a) a criminal offence, even if the provider of the service was not actually a minor (section 205b). It was additionally made illegal to use minors in pornographic advertisements (sections 214b-214b(3)).

206. A proposed amendment to the Penal Law seeks to curb the possibility of sexual abuse of children and broaden the scope of the legal protection of children. The proposal suggests to apply the extraterritorial principal on prostitution offences against minors. It also suggests to add restrictions to the double-jeopardy principal as to prostitution and pornography offences against minors so as to make it possible to try offenders in Israel even though the act is not a criminal offence in the country in which it was performed.

Protection of Children in Legal Proceedings

207. In the Law of Evidence Revision (Protection of Children) (Amendment No. 6) Law, 5760-1999 the title "youth investigator" was amended to "child investigator". In the same amendment, the prohibitions on publication were expanded and the penalty for publication of a

prohibited publication was made more severe, up to three years imprisonment and a fine currently standing at 150,000 NIS. Furthermore, it was expressly provided that the hearing would be held *in camera*, unless the court orders otherwise.

208. The recently established inter-ministerial Committee on the Status of Criminal Offences Victims has established a sub-committee, tasked with proposing a plan of action for the treatment of minors who were victims of sex offences.

209. The National Council for the Rights of the Child is setting up a project for the accompaniment and support of minor victims and witnesses during the criminal procedures of sex offences. The projects provide the minor and his or her family with the assistance of a lawyer or counselor, whose main part is providing information to the minor and preparing him or her to the forthcoming legal proceedings. The council also strives to promote changes in legislation and policy to further strengthen the status of the victim within the criminal proceedings.

Other Measures of Protection

210. **The Penal Law (Amendment No. 52), 5758-1998**. This law, *inter alia*, expands and tightens the penalty for use of an image and body of a minor for the purpose of advertising and presentation of indecent material, so that one publishing indecent material with an image of a child, including imaging and drawing, is liable to a penalty of five years imprisonment. The use of a minor for indecent publication or indecent presentation is punishable by seven years imprisonment, and if it was done by a person responsible for the minor or with his consent, ten years imprisonment. Anyone a person possessing such publication, not incidentally and in good faith, is liable to one-year imprisonment.

Education

211. In 1999, The Knesset passed legislation which lowers the age for free, compulsory education to ages 3-4 (instead of age 5, as was previously mandated). This law is being gradually implemented throughout the country. For younger children, an extensive system of early childhood and day care centers, with means-tested discounts, is available, and the cost is subsidized by the Ministry of Labor and Social Affairs.

Pupils Rights Law, 5761-2000

212. The newly enacted Pupils Rights Law 5761-2000 (hereinafter: "the Pupils Rights Law") is intended to establish principles for the rights of pupils in the spirit of human dignity and the principles of the United Nations Convention on the Rights of the Child, while preserving the uniqueness of the various educational institutions as defined in the Compulsory Education Law, 5709-1949, the State Education Law, 5713-1953, the Special Education Law, 5748-1988, and any other law.

Under section 3 of the Pupils Rights Law, every child and adolescent in the State of Israel is entitled to an education in accordance with the provisions of every law.

213. **Prohibition of Discrimination.** Under section 5(a) of the Pupils Rights Law, a district education authority, educational institution, or a person acting on their behalf, shall not discriminate against a pupil for sectarian reasons, for socio-economic reasons, or by reason of political orientation, whether of the child or of his parents, in any of the following:

(1) Registration of a pupil, or his admission to or expulsion from an educational institution;

(2) The establishing of separate educational curricula or advancement tracks in the same educational institution;

(3) The establishing of separate classes in the same educational institution;

(4) Rights and obligations of pupils, including disciplinary rules and their application.

Under section 5(b) of the Pupils Rights Law, any person who infringes the provisions of this section shall be liable to imprisonment for one year, or a fine, as provided under section 61(a)(3) of the Penal Law, 5737-1977.

214. **Disciplinary Measures.** Under section 10 of the Pupils Rights Law, It is the right of every pupil that discipline be maintained in the educational institution in conformance with human dignity and, in that regard, he is entitled that he not be subjected to corporal or degrading disciplinary measures. In addition, section 11 of the Pupils Rights Law prescribes that an educational institution shall not subject a pupil to punitive measures for an act or omission of his parents.

215. **Educational Disparities**. The following tables provide data concerning the diminishing, yet still existing, educational disparities between the different sectors within Israeli society. This data regards the number of persons with 4 or less years of education, and the number of matriculation certificate candidates and receivers.

Table 1: Population with 0-4 years of Education, 1999

Jews				Arabs and Others			
Sex and age	Thousands	Years of schooling (percentages)		Sex and age	Thousands	Years of schooling (percentages)	
Women		**0**	**1 to 4**	**Women**		**0**	**1 to 4**
Total	**1 871.9**	**3.4**	**1.6**	**Total**	**370.2**	**10.7**	**5.5**
15-17	121.2	-	0	15-17	36.2	1.9	0.6
18-24	283.0	0.3	0.2	18-24	79.6	2.3	0.6
25-34	338.9	0.6	0.1	25-34	97.6	4.1	1.6
35-44	314.0	0.7	0.2	35-44	67.8	5.6	6.2
45-54	305.6	1.2	0.5	45-54	40.4	16.6	16.1
55-64	187.9	7.1	3.9	55-64	24.9	38.6	17.7
65+	320.9	13.1	5.8	65+	23.3	57.6	12.6
Men				**Men**			
Total	**1 744.3**	**1.5**	**1.2**	**Total**	**371.9**	**3.2**	**4.8**
15-17	130.2	-	0.2	15-17	36.3	0.3	1.9
18-24	294.4	0.2	0.1	18-24	82.6	1.1	1.5
25-34	338.7	0.4	0.2	25-34	99.8	1.0	2.0
35-44	292.4	0.7	0.3	35-44	71.1	2.3	3.4
45-54	285.7	0.8	0.5	45-54	39.7	4.0	4.8
55-64	164.5	2.7	1.8	55-64	24.7	6.9	16.2
65+	238.1	6.4	5.9	65+	17.4	26.6	31.2

Table 2: Attendance Rates in Regular Education Frameworks According to Age and Sector (percentages), 1998-1999

Age	Jewish sector	Arab sector
2	67.6	5.1
3	89.3	22.5
4	92.9	33.5
5	94.0	80.7
6	97.8	97.2
14	99.7	92.6
15	97.7	79.4
16	94.7	75.6
17	89.6	68.3

Table 3: Age Group 17 - Percentage of Matriculation Candidates and Those Entitled to a Matriculation Certificate, 1998

	Matriculation candidates	Entitled to a matriculation certificate
Total	**63.5%**	**40.1%**
Jewish education	68.3%	44.8%
Arab education (including Druze)	45.1%	22.2%
Druze education	69.4%	30.7%

In 1999, the average number of students per class was 26 in the Jewish sector and 30 in the Arab sector. During the period from 1995 to 1999, the average number of students per class declined in both the Arab sector (30.9 in 1995) and the Jewish sector (27.4 in 1995).

216. **The Extended School Day and Supplementary Education Law, 5757-1997**. This law is aimed to further advance equal opportunity in education, and contribute to helping the children make the most of their natural abilities. It provides that four school days per week shall last for no fewer than eight academic hours each. The law is being gradually implemented, with a preference to municipalities and neighborhoods in need of additional assistance in education. The full implementation of the law is to be completed during the year of 2001.

Education in the Arab Sector

217. The Education and Welfare Services Department in the Ministry of Education (EWS) is responsible, since its establishment in the 1970s, for the advancement of weaker populations by applying special programs and projects in the educational system. For the first ten years of its existence, the EWS did not handle the Arab and Druze sectors, which were dealt with by a special unit in the Ministry of Education.

218. In 1997, The Legal Center for the Rights of Arabs in Israel petitioned the High Court of Justice, demanding that the Ministry of Education apply the EWS special reinforcement programs in the Arab municipalities, as well as the Jewish ones (*HCJ* 2814/97 *The High Follow-up Committee on Matters of Arab Education in Israel et al. v. The Ministry of education, Culture and Sports*).

219. **The Ben-Peretz Committee.** Following the petition, the Ministry of Education set up a special committee, headed by Professor Miriam Ben-Peretz, to develop a five year plan for education in the Arab sector - the years 1999-2003. In 1998, the Ben-Peretz Committee presented its comprehensive report, with recommendations ranging across several policy areas.

The recommendations made by the Ben-Peretz Committee include:

The building of approximately 1,600 classes (including kindergartens and special education) within five years;

Significantly expanding the programs applied by the Education and Welfare Services Department (EWS);

Significantly expanding the Tutorial Project (*Perach*), in which university students give tutorials to school children in need of additional help;

The establishment of a experimental program for the prevention of school drop-out in five municipalities as a groundwork for a wider model;

Expanding the scope of teachers' training, and the establishment of regional centers for teachers' training;

Granting 50 teachers with scholarships in the field of science and technology;

The founding of prestigious study courses in order to attract competent students, as well as technologic alternatives which will answer to the needs of weaker students;

Expanding the budget for construction and equipping of science labs;

Improving the efforts to identify students for the special education, and adding approximately 13,000 academic hours and 120 positions for educational psychologists;

Decreasing the number of children in every class;

Establishing regional education centers.

220. In July 1999, the government had decided to start the implementation of the committee's recommendations. The Ministry of Education will allocate NIS50 million a year for five years. In addition, the Ministry of Education decided on the implementation of an affirmative action policy, favoring education in the Arab sector to the education in the Jewish sector. The five-year plan includes, *inter alia*, the allocation of 37% of the pre-school education budget to the Arab municipalities, the allocation of 29.5% of the Ministry's construction budget to building classes in the Arab schools and the doubling of funding assigned to the Arab education for special guidance, making it 18% of the total budget. In addition, the growth rate of teaching positions in the Arab sector was 25%, while in Jewish sector, it was only 10%.

221. The efforts made by the Ministry of Education have led to the reduction of gaps between the sectors, but not to their complete elimination. The Follow-up Committee on Matters of the Arab Education in Israel asserted that the plan lacks sufficient reference to some of the committee's recommendations, such as the additional positions for psychologists and visiting officers, the establishment of regional administrations for the special education, the reduction of crowding in the special education classes, funding the establishment of special programs for gifted Arab students, the opening of teacher training centers, and the allocation of funds for the adaptation of exams and diagnostic tools for the needs of the Arab population.

Genetic Information

222. Under the Genetic Information Law, 5760-2000, the ability to acquire and/or use a DNA sample from a minor is subject to the written consent of the child's legal guardian. In the case of a minor over the age of 16, the child's own written consent is also required. The law limits the objectives for which a genetic sample can be attained and provides that the taking of a genetic sample is only possible if the act is certain to not cause the child any physical or mental damage. The conducting of genetic testing on a minor, for the benefit of someone other than a minor's family member, requires the written consent of the legal guardian as well. The findings of a test given to a minor may not be given to his legal guardian unless the existence, or non-existence, of a disease or a disease carrying gene is discovered, and a reasonable medical assessment shows that intervention or treatment at the early stage might prevent or postpone the eruption of the disease or improve the minor's medical condition, prevent the eruption of a disease in other members of the minors family, or be of fundamental value to somebody else, without causing any physical or mental damage to the minor.

In addition, the law prescribes that a minor over the age of 16 taking part in a research involving genetic testing shall be able to instruct the researchers as to the protection of his personal data. When the minor turns 18 years old, he will be able to revoke, limit or change any consent regarding his participation in the study.

Physical Disciplining of Children

223. Until recently, section 24(7) of the Tort Ordinance, enacted in 1944, granted a defense to a charge under the tort of battery to a parent, a legal guardian or a teacher in cases where the plaintiff was a minor, and the assault was reasonably necessary for educational purposes. A 1999 draft law is proposing the amendment of the Tort Ordinance, and the abolishment of above mentioned article 24(7).

224. The legitimacy of "reasonable physical disciplining" was rejected by the Supreme Court in C.A. 5224/97 *The State of Israel v. Rachel Sde-Or*. The court overturned the acquittal of a nursery school teacher charged with hitting infants that were left under her care, stating that:

> "An educational philosophy which stands for the use of force for educational purposes, does not correspond with the predominant norms in our society, especially when young children are concerned.... For that matter, the severity of the physical punishment used against a child is insignificant. As a rule, physical punishment cannot be a legitimate method for school teachers, nursery teachers or any other educator. The wrong standpoint on this context puts the wellbeing of children in jeopardy, and might harm the fundamental values of our nation – human dignity and the integrity of one's body".

Furthermore, the Supreme Court has held that the use of physical punishment against preschool children does not fulfil the demand of "reasonably necessary for educational purposes", and thus does not entitle the aggressor to the defense in of article 24(7) of the Tort Ordinance.

225. In a recent decision (C.A.4596/98 *Anonymous v. The State of Israel*), the Supreme Court has held that the criminal prohibition of physical punishment applies to parents as well, stating, *inter alia*, that:

> "Physical punishment is not only painful or degrading as an educational method, but also unable to truly accomplish its goals, causes physical and psychological damages to the child, and violates the fundamental right of children in our society to dignity and the integrity of the mind and body. A court examining the normative aspect of a parent's behavior towards his child shall weigh the contemporary judicial approach to the status and the rights of the child. Thus in many other states in the world, and thus in Israel, in the era following the enactment of Basic Law: Human Dignity and Freedom, and Israel's ratification of the International Convention on the Rights of the Child. Today, one can ascertain that in a society such as ours, the child is an autonomous person, with independent interests and rights. Society is obligated to protect him and his rights."

226. Ministry of Education guidelines strictly forbid the use of all sorts of physical punishment as a disciplinary method. The use of verbal violence, such as offensive or degrading remarks, is also forbidden. Remedies for a breach of the guidelines are being enforced by both the penal system and by disciplinary means. In addition, as mentioned under section 196 to the Present Report, section 10 of the newly enacted Pupils Rights Law 5761-2000 prescribes that no pupil shall be subjected to corporal or degrading disciplinary measures.

Family Violence

227. The Penal Law was recently amended (amendment 56 - the application of a minimum punishment for offences of violence against women and children). The amended law sets the minimal sentence for those convicted of offences involving severe violence against a family member at no less than one fifth of the maximum possible sentence. However, the court may, on special cases, use its discretion and reduce the sentence.

Children with Disabilities

228. **The Equal Rights of Persons with Disabilities Bill, 5760-2000** creates a comprehensive statutory framework concerning the rights of people with disabilities, including the rights of children with disabilities. For further information on this subject, see article 26 below.

229. **The Rehabilitative Day Care Facilities Law, 5760-2000.** This law aims to ensure suitable rehabilitative, therapeutic and educational treatment for mentally retarded or otherwise disabled infants, between the ages of 1-3 years. The funding of the rehabilitative day care is to be divided between from the state, the health funds and the parents.

Foreign Workers' Children

230. During the last decade, many foreign workers arrived in Israel from all over the world (For further information regarding the status of foreign workers, see article 8 above). The National Health Insurance Law does not apply to foreign workers and their children, even if they are legally present in Israel. Subsequently, the foreign worker is required to ensure himself, and

not all-Israeli employers provide health insurance to their employees. At present, there are approximately 2,500-3,000 children of foreign workers living in Israel. Some of their parents have stay and work permits, and some have remained in Israel illegally. Many of these children don't have any kind of health insurance, and their parents cannot afford medical treatment. It should be noted that emergency services are granted without distinction to anyone arriving at outpatients' emergency wards of hospitals. In addition, "Physicians for Human Rights", An NGO, established a clinic for foreign workers in Tel Aviv, where most of the foreign workers reside, which provides for additional medical treatment. The clinic employs, on a voluntary basis, family physicians, pediatrics, and general physicians, along with hospital and health-fund clinic (*Kupat Holim*) nurses. The clinic operates three times a week, and offers basic medical services to both legal and illegal workers, at modest prices.

231. In July 2000, The Foreign Workers law, 5760-2000 came into force. Under this law, the Minister of Health is to make regulations defining an assortment of services the insurance companies are required to supply the foreign workers with. The regulations have been published recently. As for the foreign workers' children, the Ministry of Health had published a tender to supply them with health care services. One of the health funds was chosen as a supplier, and the arrangement, which took effect on 1.2.2001, applies the following rules:

Children born in Israel can be enrolled, if at least six months have passed since the mother's arrival in Israel, to the health fund chosen in the tender, within six months from the child's birth. Then, the child will be immediately insured. Failing to enroll the child within a period of six months shall result in a delay of six months in the child's entitlement to the health fund's services. However, every child is immediately entitled to emergency services without any waiting period.

Children not born in Israel can be enrolled in the health fund chosen in the tender no earlier than six months from the child's arrival in Israel. The child's entitlement to the health fund's services shall begin 6 months from the date of enrolling. Again, emergency services will be provided without any waiting period.

The arrangement is to apply to all children of foreign workers, regardless of the legality of their parents' stay in Israel.

232. In *C.A. 3275/98, Welfare Officer, the City of Holon v. Anonymous*, the Tel Aviv District Court reviewed a request of the social services to order the performance of an operation on a two-year-old girl deserted by her mother, a Moldavian citizen, who left Israel shortly after giving birth to her. The court held that by accepting the International Convention on the Rights of the Child, the state took upon itself to provide children with the highest attainable level of health, and ordered that a medical procedure necessary to improve the girl's quality of life be performed regardless of her nationality.

Homeless Children

233. During the last few years, there had been growing awareness to the problem of homeless people in Israel. According to recent evaluations, there are approximately 3,000 homeless people living in Israel, nearly all of them adults with no children. Still, there are some

adolescents or runaway children among the homeless. The Society for Youth in Distress and the Authority for Youth Protection operate, in conjunction with other organizations, a support network for these youths, including two shelters for homeless youths located in Tel Aviv and in Jerusalem; a treatment "cafe" located at the Tel Aviv Central Bus Station, and special vehicles which patrol areas in the major cities where homeless youth gather.

Article 25 - Access to the Political System

234. This issue has been discussed in Israel's previous report and no change has occurred in this area since the 1998 submission of the Initial Periodic Report.

Article 26 – Equality Before the Law

235. **Elimination of Discrimination in the Private Sphere.** Discrimination by private parties is prohibited in Israeli law only to the extent that legislation explicitly so provides. The legal position in this area has changed dramatically due to the recent enactment of the Law for the Prohibition of Discrimination in Products, Services and in Entry to Public Places, 5761-2000. Under section 3(a) of this law, a provider of products or a services to the public, or anyone engaged in the operation of a public place, is prohibited from discriminating on the grounds of race, religion or religious group, nationality, country of origin, sex, sexual orientation, views, political affiliation, personal status, parenthood or disability. Such discrimination constitutes, under section 5, a civil wrong ,enforceable under the provisions of the Tort Ordinance. In addition, such discrimination constitutes, under section 9, a criminal offence, punishable by fine. Under section 11, this law applies to the state as well. It also establishes a series of legal presumptions, passing the burden of proof to the defendant in cases of *prima facie* discrimination.

Rights of People with Disabilities

236. **Legislation.** On February 23, 1998, the Equal Rights for People with Disabilities Law, 5758-1998 was passed by the Knesset, establishing, for the first time, the statutory right to equality and human dignity of people with disabilities and creating a new system of obligations for the State of Israel *vis-a-vis* its disabled citizens. The principal impetus for the enactment of the Equal Rights for People with Disabilities Law, 5758-1998 was The Report of the Public Commission on Comprehensive Legislation Concerning the Rights of People with Disabilities (the "Public Commission") which was submitted to the Minister of Justice and the Minister of Labor and Social Affairs in July 1997.

The Equal Rights for People with Disabilities Law, 5758-1998 came into effect on January 1, 1999, and was only part of the complete Bill. It includes provisions concerning basic principles, general principles, equality of employment, accessibility of public transportation and establishment of a Commission on Equal Rights for People with Disabilities. The remaining chapters of the Bill were re-tabled before the Fifteenth Knesset in the form of the Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999.

On August 1, 2000, the Equal Rights for People with Disabilities Commission was formally established and is presently in its formative stages. Although two years have elapsed since the entry into force of the Equal Rights for People with Disabilities Law, 5758-1998, many of its provisions have not yet been implemented, mostly for budgetary reasons. However, efforts are being strongly made in regard.

The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 passed its first reading on December 22, 1999, and is currently being debated in the Labor, Social Affairs and Health Committee of the Knesset.

At the same time, laws and legislative amendments are being enacted in specific areas promoting the rights of particular groups of people with disabilities (the mentally-ill, disabled infants, mentally-retarded persons, etc.)

237. Starting on October 5, 1999, the disabled persons community in Israel declared a strike. The strikers demanded that the government grant basic living conditions to them, specifically, the correction of flaws in the area of social security sphere. After 37 days of a sit in strike in the lobby and forecourt of the Ministry of Finance's main offices, the government decided to give in to the demands and improvements were made to the entitlements of those persons with severe disabilities to mobility allowance and special services benefits.

238. Most public buildings and places in Israel are inaccessible to people with disabilities who are wheelchair users (examples are government offices, local authority offices, schools, universities, coffee houses, theaters, restaurants, courts, etc.).

239. An amendment to the Planning and Building Law, 5728-1968 and accompanying regulations enacted at the beginning of the 1980s provided that a building permit would not be granted for a public building if lacking the provision of special arrangements for people with disabilities. However, this legislation only applies to public buildings. Moreover, the legislation distinguishes between Type A public buildings and Type B public buildings, where the latter, which include, for example, schools, government ministries and local authorities, are only obliged to make special arrangements on one floor in order to obtain a building permit. The Local Authorities (Provisions for People with Disabilities) Law, 5748-1988 obliges local authorities to lower sidewalks on pedestrian crossings and junctions.

240. As a general rule, public transportation in Israel is inaccessible to persons with disabilities, i.e., there are few buses which are equipped for travel by wheelchair users.

241. The Equal Rights for People with Disabilities Law, 5758-1998 provides people with disabilities with a right of access to public transportation (city buses, trains, boats, air transport) and charges the Minister of Transport with the enactment of regulations in relation to the ways in which, and the time frame within which, public transportation is to be made accessible. These regulations have yet to be enacted. Recently a petition was submitted to the High Court of

Justice by 20 organizations engaged in promoting the rights of people with disabilities. In the interim order the Minister of Transport was ordered to submit draft regulations to the Knesset by the commencement of the winter session.

242. Recently, the importation of a new type of taxi-cab, suitable for wheelchair users, has begun.

243. The Knesset and Prime Minister Elections Law [Consolidated Version] 5729-1969 contains provisions concerning the accessibility of polling stations for people with disabilities, primarily aimed at providing at least one accessible polling station for every 20,000 residents. These and similar provisions in the Local Authorities (Elections) Law, 5725-1965, are seriously inadequate at this time.

244. The elections law was amended to include a provision whereby every person whose mobility is impaired may vote at any polling station for handicapped persons, by means of the so-called "double envelopes" method.

245. Several public information services are not accessible to people with sensory disabilities (the partially sighted, blind persons, people who are hard of hearing or deaf).

246. Television programs were, until recently, rarely accessible to people who are hard of hearing or deaf. The Deaf Persons Relief Law, 5752-1992 includes provisions requiring the Broadcasting Authority: (A) to translate at least one news program a week into sign language; (B) to add subtitles to a quarter of these non-live broadcasts - Hebrew broadcasts with Hebrew subtitles, and Arabic broadcasts with subtitles in Arabic. As a result of two petitions to the High Court of Justice (1994), the Broadcasting Authority now translates the current affairs program "From Today to Tomorrow", which is broadcast at 23:30, into sign language, once a week on Thursdays.

A petition was recently filed in the High Court of Justice by "Bekol", an organization for the hard of hearing and hearing impaired, demanding that the Broadcasting Authority fulfill its obligations under the Deaf Persons Relief Law and add subtitles to one-quarter of its non-live broadcasts. After an interim order was granted, the Broadcasting Authority has agreed that from now on it shall add Hebrew subtitles to at least one-quarter of its non-live Hebrew broadcasts, and Arabic subtitles to at least one quarter of its non-live Arabic broadcasts. In addition, the Broadcasting Authority shall see to it that shows accompanied by subtitles will be noted in the programming schedules published in the media. (H.C.J 5959/00 *Bakol v. The Broadcasting Authority*).

247. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 institutes an innovative and comprehensive scheme covering physical, sensory and social accessibility.

Employment of People with Disabilities

248. Unemployment rates among people with disabilities are high. In a survey conducted by the Service for the Blind of the Ministry of Labor and Social Affairs it was found that 72 per cent of the blind persons are unemployed (March 1997). The Rehabilitation Department of the Ministry of Labor and Social Affairs estimates the rate of unemployment among people with severe disabilities, physical illness, mental illnesses and retardation is 70%-75%. In a survey conducted in1992, unemployment levels among deaf people aged 30-64 were found to be at 18%-22%. Moreover, experts testifying before the Public Commission pointed to professional flaws in the area of employment rehabilitation of people with disabilities in Israel. One specific criticism of the experts was that insufficient attention is devoted to free market employment alternatives, as opposed to segregated employment frameworks, given that the latter make insufficient use of the qualifications of the employee, and fail to realize his/her personal employment potential.

249. People with disabilities in Israel suffer from wage discrimination. The Minimum Wage Law, 5747-1987 does not apply to people with physical, mental or intellectual disabilities employed in state-supported "protected enterprises", and these employees generally earn only several hundred NIS per month, regardless of their output. Section 17(a) of the law authorizes the Minister of Labor and Social Affairs to enact regulations to the effect that the provisions of the law shall apply to such employees. The Minister of Labor and Social Affairs has yet to enact such regulations. The Minimum Wage Law was amended in 1997, adding Section 17(b), and the Minister of Labor and Social Affairs was authorized to prescribe, by way of regulations, a reduced minimum wage for people with disabilities who are not covered by section 17(a) of the law, effectively people with disabilities. The regulations have yet to be enacted. (Draft regulations were recently circulated for the comments of the pertinent government ministries and public organizations.)

250. The Equal Rights for People with Disabilities Law, 5758-1998 devotes one of its principal chapters to a series of provisions establishing the right of people with disabilities to employment equality. Section 8 of this law prohibits discrimination in employment on the grounds of disability, and defines discrimination as, *inter alia*, the failure to make reasonable adjustments to the position. The Minister of Labor and Social Affairs and the Minister of Finance are charged with the enactment of regulations providing for state aid in the financing of adjustments. Such regulations have not yet been enacted. A transitory provision of seven years' duration under section 9 of this law requires a person who employs in excess of 25 employees to ensure fair representation of people with disabilities in his or her workforce; In addition, section 28 of this law contains an indirect amendment to the State Service (Appointments) Law, 5719-1959 with respect to the duty of fair representation of people with disabilities in the civil service. Fair representation is still inadequate.

Section 16 of the Equal Rights for People with Disabilities Law, 5758-1998 prescribes that the Minister of Labor and Social Affairs shall initiate and develop programs for employment rehabilitation of people with disabilities and that he shall submit a report each year on this matter to the Labor, Social Affairs and Health Committee of the Knesset. To date, no such report has been submitted to the Knesset. Draft regulations regarding the granting of priority to people

with disabilities in the allocation of parking spaces at workplaces were recently submitted by the Minister of Labor and Social Affairs to the Labor, Social Affairs and Health Committee of the Knesset, and a meeting has since been convened for the approval of the regulations.

251. Last year, the Bar Association (Arrangements for Examination in the Laws of the State of Israel and Practical Matters) Rules, 5723-1962 were amended, so as to include the following provisions:

> "(a) With respect to a written examination under rule 18B, the examining committee, at the request of an examinee who is a person with a disability, within the meaning of the Equal Rights for People with Disabilities Law, 5758-1998, may prescribe the modifications required for such person, on account of his or her disability, which shall ensure that he will be examined under conditions which are equal, as far as possible, to those of the other examinees.
>
> (b) Modifications determined by the examining committee, as stated in sub-rule (a), may be by way of prescribing a form of examination not included within rule 18B(a)".

252. Pupils, parents and teachers who are wheelchair users are physically unable to enter many of the school buildings in Israel, as well as classrooms and various study and social facilities. As stated above (see the chapter on accessibility above), the law requires no more than one floor in a school to be accessible, even where the school is housed in a modern building, with many floors and levels. Enforcement of this legislation is inadequate. In the case of *Botzer et al v. Maccabim-Reut Local Council et al*, 50(1) P.D. 19 the High Court of Justice established (in March 1996) the right of pupil in a wheelchair to independent, safe and dignified accessibility at school. However, this precedent did not bring about any real change beyond the individual *Botzer* case, and the Ministry of Education has still not prepared a multi-year plan on accessibility in schools in Israel.

253. The objective of the Ministry of Education is to integrate pupils with disabilities into the ordinary education system. However, for many years the view has prevailed in the Ministry of Education, that pupils with disabilities who are integrated in regular schools lose their basket of services under the law. The numerous complaints reaching the Ministry of Education on this matter, and regarding the state of special education in Israel in general, led former minister of education, Mr. Yossef Sarid, to appoint the Committee to Examine the Implementation of the Special Education Law. On July 20, 2000, the committee submitted its report and recommendations, being, in essence, the recognition of the right of pupils with special needs to study together with children of their own age, and to achieve results according to their ability by being allowed to realize their potential, and the duty of society to prevent this right from being denied, other than in exceptional cases, and taking into consideration the wishes of the family.

254. A wide gap exists in the area of special education between the Jewish sectors and minority sectors. Most children with disabilities in the Arab and Bedouin sectors do not study in educational frameworks which meet their needs and minority schools for special education existing in these sectors do not comply with the minimum level of conditions required in an educational framework. Children of various ages and with various disabilities study in the same

classes, and there is a severe lack of professional personnel to deal with those children having special needs, i.e., speech therapists, occupational therapists, physiotherapists, and the like. The Ministry of Education has recently issued a new policy statement of closing gaps in this area.

255. The Rehabilitative Day-Care Centers Law, 5760-2000 was recently enacted as a result of a private Knesset Member initiative, and establishes the right of an infant with severe disabilities to treatment in a rehabilitative day care center in accordance with a basket of services (the law shall come into effect on April 9, 2001).

256. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 includes a chapter establishing the right of a person with disabilities to a education and to schooling according to his needs.

257. Recreation and leisure, which take up increasingly more time in modern life are no less important to people with disabilities. However, people with disabilities, both adults and children, often find themselves outside the diverse cultural life which Israeli society offers. First, much of the cultural and leisure sites are inaccessible to persons with physical or sensory disabilities (see above), and many cultural activities are not relevant to people with who are mentally retarded. Second, local government in charge of these areas has no planning in this area: there is no special department and no exclusive budget for activity for people with disabilities. As a result of this lack of appropriate attention to the special needs of adults and children with disabilities, the social isolation from which these people suffer increases.

258. The Equal Rights for People with Disabilities (Amendment - Accessibility, Health, Community Housing and Personal Assistance, Culture, Leisure and Sport, Schooling and Education, the Legal System, Special Needs) Bill, 5760-1999 includes a provision imposing an obligation on the State to initiate and develop programs in the areas of culture, leisure and sport for people with disabilities, giving priority to their integration in regular programs.

259. **Sexual Abuse of People with Disabilities.** People with disabilities, and especially with mental or psychiatric disabilities, are found to be exposed to sexual abuse or assault more than anyone else. The police and the judicial system are not adequately prepared to deal with this phenomenon. Procedures of investigation and giving testimony have not yet been adapted to the special needs of people with disabilities who are victims of sexual or violent offences.

In order to solve this problem, a committee headed by Deputy Attorney General Ms. Yehudit Karp was established in the Ministry of Justice. The objective of the committee is to adapt methods of interrogation and testifying which will suit the special needs of people with disabilities. The committee is currently preparing draft legislation dealing with these issues.

Multi-Year Plan for Development of Arab-Sector Communities

260. A comprehensive government resolution was put forward in October 2000, regarding all aspects of the development of Arab-Sector communities. It follows thorough preparatory work, involving most government agencies. The decision, translated in full from the original Hebrew version, is as follows:

"In General

(a) The government of Israel regards itself as obligated to act to grant equal and fair conditions to Israeli Arabs in the socio-economic sphere, in particular in the areas of education, housing and employment.

(b) The government regards the socio-economic development of the Arab-sector communities of Israel as contributing toward the growth and development of all of Israel's society and economy.

(c) The government shall act for the socio-economic development and advancement of the Arab-sector communities and to reduce the gaps between the Arab and Jewish sectors, pursuant to the following plan, as set forth by the Prime Minister's Office and the Ministerial Committee on Arab-Sector Affairs in cooperation with the directors-general of the Prime Minister's Office and the representatives of the Arab authorities.

(d) The development plan is based on joint-working with the Arab authorities. This cooperation lays down a position regarding the recovery plans implemented through the Ministry of the Interior in the various authorities, as well as on the maintenance of good management (the application of municipal bylaws, collection of municipal taxes, compliance with construction laws, etc.)

(e) The cost of the development plan for the Arab-sector communities shall total NIS4 billion for the years 2001-2004. This sum includes an additional sum of NIS2 billion in excess of the existing development budgets in the government ministries for the Arab-sector communities, including NIS1 billion as an additional payment from the Ministry of Finance for the budget of the ministries. These budgets include the share of the Arab-sector communities in the development budgets of the government ministries designated for the entire population and include all the development budgets for the sector during the term of the plan.

(f) The development plan shall incorporate Arab local authorities and Arab communities located within regional councils.

(g) An inter-ministerial team, headed by the Prime Minister's Office and with the participation of the Ministry of Finance and other ministerial representatives, as required, shall coordinate the workings of the staff, including the mode of implementation, planning the operations, priorities, budgetary amounts and timetables for performance. The inter-ministerial team shall oversee and control the mode of implementation of the development plan by the government ministries and, in cooperation with the representatives of the Arab sector, shall perform an annual evaluation in relation to performance of the plan.

Ministry of the Interior

(a) General

The Ministry of the Interior shall allocate NIS 412 million for development of Arab-sector communities, an annual average of NIS103 million for the years 2001-2004.

(b) Advancement of master schemes, outline schemes and detailed schemes

The Ministry of the Interior shall act to advance the master plans, the outlines and detailed plans for the Arab-sector communities as set forth in Government Resolution No. 1433, dated March 30, 2000, in addition to updating plans for communities where outlines require updating. The plan shall be financed by means of a special budget in the amount of NIS28 million, approved by government resolution.

The Ministry of the Interior - NIS9.4 million;

The Israel Lands Administration - NIS4.75 million;

Local Authorities - NIS1.25 million;

The Ministry of Finance - NIS12.7 million.

A joint team of the Ministries of the Interior and Finance, the Israel Lands Administration and the Prime Minister's Office shall discuss any expansion of scope of performance of planning in additional communities by means of an additional budget of NIS12 million, taking into account the requirements and the pace of performance of the plans.

(c) The Ministry of the Interior shall allocate NIS22 million for restoration, establishment and development of religious institutions in the Arab-sector communities, NIS5.5 million in each of the years 2001-2004. The sources of funding each year shall be as follows:

The Ministry of the Interior - NIS4.5 million

The Ministry of Finance - NIS1 million.

Ministry of Construction and Housing

(a) Development of older neighborhoods

The Ministry of Construction and Housing shall coordinate the infrastructure development project in the Arab-sector communities, including new infrastructure

and improvement of existing infrastructure, with a budgetary scope of NIS220 million, an average of NIS55 million for each of the years 2001-2004, where the sources of funding for each year shall be as follows:

The Ministry of Construction and Housing - NIS23 million;

The Ministry of Finance - NIS32 million.

The plan includes NIS1.025 million per year in the neighborhoods' physical restoration clause - for the purpose of renovating dwellings owned by old people living alone. The communities are: Kfar Manda, Kfar Kana, Mishad, Tamra, and Majad el-Kroom.

The scheme shall include budgets from the Ministries of Transport, the Interior and Construction and Housing for the roads and internal routes as stated in this Resolution and shall be implemented jointly by three government ministries: the Ministry of Construction and Housing, the Ministry of Transport and the Ministry of the Interior, coordinated and administered by the Ministry of Construction and Housing and the Prime Minister's Office.

(b) Development of new neighborhoods using high-density construction

1. The Ministry of Construction and Housing shall allocate NIS120 million for development of new neighborhoods in the Arab-sector communities, to be constructed using high-density public building, mainly on state lands, a total of 5,000 housing units, averaging NIS30 million for each of the years 2001-2004, pursuant to existing arrangements between the ministries and the arrangements to be agreed upon between the ministries following the examination referred to in clause 3 below.

2. Locating the lands for high-density construction shall be implemented in coordination with the Israel Lands Administration, the Ministry of the Interior and the local authorities. The Israel Lands Administration shall transfer the authority for planning and development to the Ministry of Construction and Housing, at its request, for implementation of the plan.

3. The standard of development in the new neighborhoods shall meet acceptable standards, such that the cost thereof shall not exceed NIS70,000 per residential unit. The amount of subsidy in the high-density construction shall not exceed NIS35,000 per residential unit. Those communities to benefit from the subsidy shall be those on the map of national priority areas. Furthermore, the feasibility of encouraging such neighborhoods in those communities located outside the priority areas shall also be examined.

4. The Ministry of Construction and Housing shall allocate an additional NIS40 million for the development of new neighborhoods on private lands located within the bounds of the Arab-sector communities to be constructed using

high-density public construction in a total of not fewer than 50 housing units per neighborhood; NIS10 million on average for each of the years 2001-2004.

By developing new neighborhoods on private lands, the aid will include funding for planning (at the detailed plan stage), in addition to contributions toward development in an amount not exceeding 50% of the approved infrastructure tariffs up to a ceiling of NIS20,000 per residential unit. The budget shall be given to those neighborhoods and buildings where building permits have been granted after January 1, 2001.

5. Construction density on the sites to be chosen pursuant to this chapter shall not be below six residential units per dunam (net).

(c) Development of public institutions

1. The Ministry of Construction and Housing shall allocate NIS320 million as participation in the construction of public institutions for cultural, social and sports activities in the Arab-sector communities, an average of NIS80 million for the years 2001-2004, where the sources of funding shall be as follows:

   The Ministry of Construction and Housing - NIS10 million;

   The Ministry of Finance - NIS70 million.

2. This budget does not include construction of public institutions under the Report of the Committee of the Directors-General on Construction of Public Institutions, but does include budgets to be allocated to public institutions pursuant to other standards in the years 2000-2004.

3. Those institutions to be constructed as first priority shall include community centers of various sizes and sports halls in large communities with over 5,000 inhabitants, and subject to availability of implementation.

4. In the performance of the plan and the scope of participation, supplementary sources of financing shall be taken into account, such as the National Lottery (*Mifal HaPayis*) budgets, public institutions standard budgets and the development budgets of the Ministry of the Interior.

5. The Ministry of Construction and Housing shall set a program for public building, approve the work plans of the communities and coordinate the implementation of construction of the buildings; the maximum sum for a single public institution shall not exceed the amount determined in the Report of the Committee of the Directors-General on Construction of Public Institutions.

Ministry for National Infrastructure

(a) Administration for Sewage Infrastructure

1. The Administration for Sewage Infrastructure shall make loans and grants available to the Arab-sector authorities for regulation of the internal sewage system, conduit lines and end installations, in accordance with those budgetary restrictions stated in clause 2 below.

2. The Ministry of National Infrastructure shall allocate NIS400 million for the years 2001-2004, where 50% of this amount is allocated in loans toward solutions to deal with waste in the Arab-sector communities. The allocation shall be made in accordance with needs. The amount shall be increased and allocated by the Ministry for National Infrastructure by the Ministry of Finance.

   A joint team of the Ministry for National Infrastructure (the Water Commission and the Sewage Administration), the Ministry of Finance and the Prime Minister's Office shall determine by November 30, 2000, the parameters for the plans based on the principle of a grant of up to 50% of the amount of invested capital. As a general rule, the solutions for dealing with waste shall be compiled fully and systematically and shall include, as required, completion of internal systems, conduit lines and end installations. Solutions for utilizing purified waste water shall be funded from the budget designated for this purpose by the Ministry for National Infrastructure.

3. The Administration for Sewage Infrastructure shall direct the Arab-sector authorities in regulating those matters which are a prerequisite for receiving loans and grants, including the approval of bylaws.

(b) Israel Lands Administration

The Israel Lands Administration shall allocate NIS4.75 million as participation toward promoting master plans, outlines and detailed plans for the Arab-sector communities, as set forth in section C, in the section on the Ministry of the Interior, above.

Ministry of Transport

(a) Internal roads

The Ministry of Transport shall allocate NIS180 million for implementing internal road systems and safety projects in the Arab-sector communities; NIS45 million for each of the years 2001-2004.

(b) Regional roads

The Public Works Administration (*Ma'atz*)

The Public Works Administration shall allocate about NIS325 million for the development of a network of roads in the areas of the Arab-sector communities; NIS81.25 million for each of the years 2001-2004.

Ministry of Trade and Industry

(a) Development of industrial zones

The Ministry of Trade and Industry shall allocate NIS120 million in the years 2001-2004 for locating suitable areas and developing infrastructure in six industrial zones in densely-populated Arab areas common to a number of authorities, subject to planning availability and economic analysis. Funding sources shall be, on average as follows:

The Ministry of Trade and Industry - an average of NIS15 million;

The Ministry of Finance - an average of NIS15 million.

The budgetary expenditures shall not be subject to income from development of the areas.

(b) Benefits to industrial zones

All the benefits awarded to enterprises located in industrial zones in national priority areas (aid, grants, discounts, etc.), within the ambit of the Encouragement of Capital Investments Law, based on geographic location, shall apply to the industrial zones in section A above. The Ministry of Trade and Industry, the Ministry of Finance and the Prime Minister's Office shall examine additional modes of encouraging the above industrial zones.

(c) Development of trade and services areas

The Ministry of Trade and Industry shall allocate NIS80 million for development of services and trade areas in the Arab-sector communities, subject to planning availability and an economic analysis, NIS20 million for each of the years 2001-2004. Funding sources shall be as follows:

Ministry of Trade and Industry - NIS10 million;

Ministry of Finance - NIS10 million.

The budgetary expenditures shall be made available, without being contingent on income.

Ministry of Tourism

(a) Tourism infrastructure

The Ministry of Tourism shall allocate NIS20 million for development of tourism infrastructure in the Arab-sector communities, NIS5million for each of the years 2001-2004.

(b) Guest rooms

The Ministry of Tourism shall allocate NIS4 million to support setting up guest rooms (*Tzimmerim*) in the Arab-sector communities, according to the general rules of the Ministry of Tourism, NIS1 million for each of the years 2001-2004.

Ministry of Agricultural and Rural Development

(a) Agricultural investments

The Ministry of Agriculture shall allocate NIS20 million to promote investments for the development of agriculture in the Arab-sector communities, NIS5 million for each of the years 2001-2004.

(b) Beit Natufa Valley Project

Upon the initial analysis of the project, the amount of the investment stands at approximately NIS60 million. A team of the Ministries of Agriculture, National Infrastructure, Ministry of Finance and Prime Minister's Office shall examine feasibility and viability of the project, including the possibility of implementing the project in stages, dividing the financing between various government ministries and contribution from other users, beyond the contribution amounting to half of the aforesaid cost to be financed by the Ministry of Finance. The team shall conclude its work within three months.

Ministry of Education

(a) Construction of classrooms

The Ministry of Education shall allocate NIS700 million for construction of classrooms in elementary and high schools, in addition to pre-compulsory kindergarten classrooms, an average of NIS175 million for each of the years 2001-2004. Sources of funding each year shall come from the Ministry of Education and from the National Lottery.

(b) Pedagogical plans

The Ministry of Education shall allocate a sum of NIS280 million in the years 2001-2004 for various pedagogical plans to advance the education system in the Arab sector, NIS70 million on average for each of the years 2001-2004. Funding sources for each year shall be as follows:

The Ministry of Education - NIS50 million;

The Ministry of Finance - NIS20 million.

(c) Technological education

The Ministry of Education shall allocate NIS66 million for opening new courses of study in high schools and in post high-school institutions in technological fields, NIS16.5 million for each of the years 2001-2004. Funding sources (average) each year shall be as follows:

The Ministry of Education - NIS8.25 million;

The Ministry of Finance - NIS8.25 million.

The Ministry of Labor and Social Affairs

Vocational training

The Ministry of Labor and Social Affairs shall allocate a total amount of NIS268 million for setting up engineering-technician and vocational training courses; NIS67 million for each of the years 2001-2004.

This clause includes an amount of NIS24 million for opening supplementary education classes for women, NIS6 million for each of the years 2001-2004. Funding sources for each year shall be on average as follows:

The Ministry of Labor and Social Affairs - NIS47 million;

The Ministry of Finance - NIS20 million.

Ministry of Health

Health stations

The Ministry of Health shall allocate NIS10 million for construction of family health stations and oral health stations in the Arab-sector communities, NIS2.5 million for each of the years 2001-2004. Funding sources (on average) for each year shall be as follows:

The Ministry of Health - NIS1.25 million;

The Ministry of Finance - NIS1.25 million.

Ministry of Internal Security

Police stations

The Ministry of Internal Security shall allocate NIS120 million for construction of police points and stations in the Arab-sector communities, NIS30 million for each of the years 2001-2004. Funding sources shall be as follows:

The Ministry of Internal Security - NIS10 million;

The Ministry of Finance - NIS20 million.

Ministry of Science, Culture and Sport

(a) Construction of cultural institutions and sports installations

The Ministry of Science, Culture and Sport shall allocate NIS28 million for construction of cultural institutions and sports installations, NIS7 million for each of the years 2001-2004. Funding sources for each year shall average as follows:

The Ministry of Science, Culture and Sport - NIS3.5 million;

The Ministry of Finance - NIS3.5 million.

(b) Infrastructure for regional research and development "R& D" centers

The Ministry of Science, Culture and Sport shall allocate NIS16 million for improvement of the physical infrastructure of regional R & D centers in the Arab-sector communities; NIS4 million for each of the years 2001-2004, from a budgetary supplement from the Ministry of Finance.

(c) Support of cultural, artistic and sport activities

The Ministry of Science, Culture and Sport shall allocate NIS91 million to assist cultural, artistic and sports activities, an average of NIS22.75 million for each of the years 2001-2004.

Prime Minister's Office

Operation

The Prime Minister's Office shall allocate NIS8 million for operation, overseeing and control of implementation of the plan, including appointment of projectors for promoting the various component parts of the scheme, NIS2 million."

261. **The Electricity Supply Law (Temporary Order) 5756-1996.** This law was enacted to solve the problem of Arab and Druze citizens whose houses were built without building permits, and were consequently not connected to the central electricity grid. Under the temporary order, the electricity administration in the Ministry of National Infrastructure has approved, in the course of the last three years, the connection of close to 6,000 households to the electric grid.

Recently, a law prolonging the validity of the temporary law for two years was passed in the Knesset. The aim of the extension is to enable the Ministry of National Infrastructure to examine close to 5,000 additional buildings, and connect them to the national electric grid.

Land Allocation

262. In H.C. 6698/95 *Ka'adan v. The Israel Lands Administration* (ILA), The High Court of Justice has held that the State of Israel was not permitted, by law, to allocate State land to the Jewish Agency for Israel for the purpose of establishing a community which would discriminate between Jews and non-Jews. The petitioners, an Arab couple, wished to build a home in Katzir, a communal village in the Eron River region at the north of Israel. Katzir was established in 1982 by the Jewish Agency in collaboration with the Katzir Cooperative Society, on state land that was allocated to the Jewish Agency (via the Israel Lands Administration) for such a purpose.

The Katzir Cooperative Society only accepted Jewish members. As such, it refused to accept the petitioners and allow them to build their home in the communal village of Katzir. The petitioners claimed that the policy constituted discrimination on the basis of religion or nationality and that such discrimination with regard to state land is prohibited by law.

The court held in the *Ka'adan* case that the state may not allocate land directly to its citizens on the basis of religion or nationality. This conclusion is derived both from the values of Israel as a democratic state and from the values of Israel as a Jewish State. The Jewish character of the state does not permit Israel to discriminate between its citizens. In Israel, Jews and non-Jews are citizens with equal rights and responsibilities. The court emphasized that the state engages in impermissible discrimination even if it is also willing to allocate state land for the purpose of establishing an exclusively Arab settlement, as long as it permits a group of Jews, without distinguishing characteristics, to establish an exclusively Jewish settlement on state land ("separate is inherently unequal").

Moreover, the court held that the state may not allocate land to the Jewish Agency knowing that the Agency will only permit Jews to use the land, saying that where one may not discriminate directly, one may not discriminate indirectly. If the state, through its own actions, may not discriminate on the basis of religion or nationality, it may not facilitate such

discrimination by a third party. It does not change matters that the third party is the Jewish Agency. Even if the Jewish Agency may distinguish between Jews and non-Jews, it may not do so in the allocation of state land.

It should be noted that the court limited its decision in the *Ka'adan* case to the particular facts of this case. The general issue of use of state lands for the purposes of settlement raises a wide-range of questions, which are still not resolved. First, *Ka'adan* is not directed at past allocations of state land. Second, it focuses on the particular circumstances of the communal village of Katzir. In discussing this issue, the court did not take a position with regard to other types of settlements (such as the commune-based *Kibbutz* or *Moshav*) or to the possibility that special circumstances, beyond the type of settlement, may be relevant, stating that:

> " [I]t is important to understand and remember that today we are taking the first step in a sensitive and difficult journey. It is wise to proceed slowly, so that we do not stumble and fall, and instead we will proceed cautiously at every stage, according to the circumstances of each case".

263. With regard to the relief requested by the petitioners, the court noted various social and legal difficulties. In light of these difficulties, the court rendered the decision that the State of Israel must consider the petitioners' request to acquire land for themselves in the town of Katzir for the purpose of building their home. The state must make this consideration based on the principle of equality, and considering various relevant factors - including those factors affecting the Jewish Agency and the current residents of Katzir. The State of Israel must also consider the numerous legal issues. Based on these considerations, the state must determine with deliberate speed whether to allow the petitioners to make a home within the communal town of Katzir.

Appropriate Representation

264. **The Civil Service.** Under the Newly enacted Civil Service (Appointments) (Amendment No. 11) (Proper Representation) Law, 5760-2000, the civil service must maintain appropriate representation regarding appointments as well as in the distribution of professional ranks with regard to specific circumstances. Minorities and under-represented populations such as women, the disabled, and the Arab, Druze and Circassian population shall be represented according to their proportion in the eligible work force population. Under the Law, the government is entitled to apply an affirmative action policy when necessary and allocate certain positions to an under-represented group, so as to achieve proper representation.

265. **Government Corporations.** According to data gathered in September 2000, ten out of 599 directors were of Arab origin (about 1.7 per cent). Under an amendment to the Government Corporations (Amendment 11) Law 5735-1975 made June 11, 2000, the Arab population (namely, Israeli citizens of Arab, Druze and Circassian origin) must be appropriately represented on the board of directors of every government corporation.

In addition, the law prescribes that until appropriate representation is achieved, ministers must appoint as many Arab directors as possible. Section 60(a) of the Government Corporations Law extends the application of amendment 11 to appointments to the board of directors of statutory corporations and other statutory organizations.

Sexual Orientation

266. On February 21 ,2000, the High Court of Justice ordered the Minister of Interior to register the adoption of a child by his mother's lesbian partner in the Population Registration. The court held that the adoption order, granted by a court in the child's native state of California, is valid, and rejected the registration clerk's claim that the registration of two mothers of one child is "biologically impossible" (H.C. 1779/99 *Brener-Kadish v. the Minister of Interior*). It should be noted that a request for a Further Hearing by an extended panel of the High Court of Justice has been filed on this matter.

Religion

267. Following a petition filed by a secular NGO against the unusual benefits given to prospective occupants of the centrally-located orthodox-Jewish city of El'ad. The High Court of Justice directed the Ministry of Construction and Housing to refrain from discriminating on a religious basis by granting El'ad prospective residents excess benefits which are withheld from other house buyers in central Israel (H.C. 4906/98 *Am Hofshi v. The Ministry of Construction and Housing*).

268. **Equality in Employment**

Table 1. Employment and Unemployment of Israelis: Levels and Trends, 1996-1999

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Total population				
Aged 15 & over (thousands)	4 019.9	4 358.5	3.2	2.7
Civilian labor force:				
Number (thousands)	2 156.9	2 345.2	4.0	2.8
Participation rate (%)	53.7	53.8		
Employed (thousands)	2 012.8	2 136.7	4.9	2.0
Unemployed				
Number (thousands)	144.1	208.5	-4.9	13.1
Unemployment rate (%)	6.7	8.9		
Jews				
Aged 15 & over (thousands)	3 362.6	3 616.2	3.0	2.5
Civilian labor force:				
Number (thousands)	1 880.2	2 029.4	3.9	2.6
Participation rate (%)	55.9	56.1		
Employed (thousands)	1 753.3	1 857.0	4.7	1.9
Unemployed				
Number (thousands)	127.0	172.4	-5.0	10.7
Unemployment rate (%)	6.7	8.5		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Men				
Aged 15 & over (thousands)	1 959.7	2 116.3	3.1	2.6
Civilian labor force:				
Number (thousands)	1 217.8	1 285.0	3.1	2.6
Participation rate (%)	62.1	60.7		
Employed (thousands)	1 147.0	1 176.2	3.8	0.8
Unemployed				
Number (thousands)	70.8	108.8	-4.7	15.4
Unemployment rate (%)	5.8	8.5		
Women				
Aged 15 & over (thousands)	2 060.1	2 242.2	3.3	2.9
Civilian labor force:				
Number (thousands)	939.1	1 060.2	5.2	4.1
Participation rate (%)	45.6	47.3		
Employed (thousands)	865.8	960.5	6.5	3.2
Unemployed				
Number (thousands)	73.3	99.7	-5.6	6.3
Unemployment rate (%)	7.8	9.4		
Arabs and others				
Aged 15 & over (thousands)	657.3	742.2	4.6	4.1
Civilian labor force:				
Number (thousands)	276.6	315.8	5.3	4.5
Participation rate (%)	42.1	42.5		
Employed (thousands)	259.5	279.7	6.3	2.5
Unemployed				
Number (thousands)	17.2	36.1	-5.1	3.2
Unemployment rate (%)	6.2	11.4		
Aged 15-17				
Aged 15 & over (thousands)	303.2	324.1	1.0	1.7
Civilian labor force:				
Number (thousands)	38.5	29.6	4.0	-8.4
Participation rate (%)	12.7	9.2		
Employed (thousands)	30.9	24.1	6.5	-7.9
Unemployed				
Number (thousands)	7.6	5.5	0.3	-10.2
Unemployment rate (%)	19.7	18.6		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
Aged 18-24				
Aged 15 & over (thousands)	698.9	739.9	3.8	1.9
Civilian labor force:				
Number (thousands)	304.2	325.1	5.0	2.2
Participation rate (%)	43.5	43.9		
Employed (thousands)	265.3	271.2	8.8	0.7
Unemployed				
Number (thousands)	38.9	53.8	-5.9	11.4
Unemployment rate (%)	12.8	16.6		
Aged 45-54				
Aged 15 & over (thousands)	553.1	671.5	6.9	6.7
Civilian labor force:				
Number (thousands)	422.1	520.8	8.2	7.3
Participation rate (%)	76.3	77.6		
Employed (thousands)	402.9	486.3	10.6	6.5
Unemployed				
Number (thousands)	19.2	34.5	-0.3	21.6
Unemployment rate (%)	4.5	6.6		
Aged 55-64				
Aged 15 & over (thousands)	383.3	402.3	2.7	1.6
Civilian labor force:				
Number (thousands)	188.7	198.1	2.4	1.6
Participation rate (%)	49.2	49.2		
Employed (thousands)	179.6	184.8	4.7	4.1
Unemployed				
Number (thousands)	9.1	13.3	-5.6	13.5
Unemployment rate (%)	6.7	4.8		
Residing in development areas				
Aged 15 & over (thousands)	417.9	452.0	6.5	2.6
Civilian labor force:				
Number (thousands)	218.9	240.9	6.5	3.2
Participation rate (%)	52.4	53.3		
Employed (thousands)	195.9	212.2	9.9	3.7
Unemployed				
Number (thousands)	23.0	28.8	-1.3	7.8
Unemployment rate (%)	10.5	11.9		

Table 1 (Continued)

	Average annual percentage change			
	1996	**1999**	**1991-1996**	**1996-1999**
New immigrants[1]				
Aged 15 & over (thousands)	553.7	719.5	21.3	9.1
Civilian labor force:				
Number (thousands)	296.0	397.8	25.2	10.4
Participation rate (%)	53.4	55.3		
Employed (thousands)	268.6	352.6	33.8	9.5
Unemployed				
Number (thousands)	27.4	45.2	-5.8	18.2
Unemployment rate (%)	9.3	11.4		

Source: Israel, Central Bureau of Statistics, Labor Force Surveys

[1] Arrivals from 1990 onwards

Table 2: Employed Persons, by Occupation, Sex and Population Group, 1999

All Workers

	Thousands			Percent Distribution		
Occupation	**Total**	**Men**	**Women**	**Total**	**Men**	**Women**
Total	2 136.6	1 176.2	960.5	100.0	100.0	100.0
Academic professions	264.7	141.1	123.6	13.0	12.2	12.5
Other professions & technicians	309.6	121.8	187.8	14.7	10.5	19.7
Managers	133.6	100.7	33.0	6.3	8.7	3.5
Clerical workers	358.4	94.6	263.9	17.0	8.2	27.7
Agents, sales & service workers	387.3	177.9	209.4	18.3	15.3	21.9
Skilled agricultural workers	39.3	33.6	5.7	1.9	2.9	0.6
Manufacturing, construction & other skilled workers	444.7	391.7	53.0	21.0	33.8	5.6
Unskilled workers	175.7	97.8	77.9	8.3	8.4	8.2
Unknown	23.1	16.9	6.2	-	-	-
Jews						
Total	1 857.1	964.6	892.5	100.0	100.0	100.0
Academic professions	244.5	126.2	118.3	13.3	13.3	13.3
Other professions & technicians	284.9	110.7	174.2	15.5	11.7	19.7
Managers	128.1	95.8	32.4	7.0	10.1	3.7
Clerical workers	337.5	84.7	252.8	18.4	8.9	28.5
Agents, sales & service workers	345.0	149.2	195.8	18.8	15.7	22.1
Skilled agricultural workers	32.6	27.7	5.0	1.8	2.9	0.6
Manufacturing, construction & other skilled workers	326.0	284.4	41.6	17.8	29.9	4.7
Unskilled workers	137.5	71.1	66.4	7.5	7.5	7.5
Unknown	20.9	14.8	6.1	-	-	-

Table 2: (Continued)

Arabs and Others

	Thousands			Percent Distribution		
Occupation	**Total**	**Men**	**Women**	**Total**	**Men**	**Women**
Total	279.5	211.6	68.0	100.0	100.0	100.0
Academic professions	20.3	14.9	5.3	7.3	7.1	7.8
Other professions & technicians	24.7	11.1	13.6	8.9	5.3	20.1
Managers	5.5	4.9	0.6	2.0	2.3	0.9
Clerical workers	21.0	9.9	11.1	7.6	4.7	16.4
Agents, sales & service workers	42.3	28.7	13.6	15.2	13.7	20.1
Skilled agricultural workers	6.7	6.0	0.7	2.4	2.9	1.0
Manufacturing, construction & other skilled workers	118.7	107.3	11.3	42.8	51.2	42.8
Unskilled workers	38.3	26.8	11.5	13.8	12.8	17.0
Unknown	2.2	2.1	0.1	-	-	-

Source: Israel, Central Bureau of Statistics, Labor Force Survey,1999

269. **Equality in Social Security.** Since the submission of the Initial Periodic Report there have been a few notable positive changes enhancing equality in social security, which are already presented in this report:

- The gradual erosion in the historical distinctions existing between "housewives" and other women in old-age benefits, survivors' benefits and disability insurance;

- The improvements in the benefits of severely disabled persons.

In order to further promote the welfare of women in Israel, a steering committee, headed by the director general of the National Insurance Institute, has been set up.

In addition, mention should be made of a number of examples of recent legislation bearing on the subject of gender equality in social security:

- The definition of "self-employed" has been changed, allowing women who work part-time to be insured for work injuries and to be eligible for maternity allowance;

- The payment of maternity allowance to fathers, allowing women to return to work before the end of the three-month maternity leave, leaving the infant with his father;

- The period during which a woman must rest, due to pregnancy risks, is now considered part of the qualifying period for purposes of maternity allowance;

- The expansion of the definition of single-parent family to include women who have just begun the divorce process, in civil or religious courts.

The Bedouin Population

270. **General.** There are now, according to recent estimates, more than 120,000 Bedouin living in the Negev desert area, in the south of Israel. Their annual population growth rate is about 5.8%. At this time, approximately 50% of the Bedouin population (60,000 out of 120,000) reside in the seven planned settlements in the Negev, known as the "Bedouin towns". Most residents of these towns are Bedouins of *Fallah* (Farmer) origin.

271. The rest of the Bedouin population in the Negev still lives in unplanned settlements. About 80% of these Bedouin are of nomadic origin. As they wish to continue and keep "their" lands, they are unwilling to move to the towns, and demand, instead, the establishment of their own rural settlements, within the lands they currently occupy. Close to 20% of these Bedouin are of *Fallah* origin and would be willing to move to the existing settlements if offered better conditions.

272. The unplanned Bedouin settlements are not recognized by the government. As a result, those settlements, commonly known as "the unrecognized settlements", are not entitled to many public services, and are not given any building permits, since they are at odds with the existing plans for the development of the Negev. The government feels that giving recognition to these settlements would bring to an end all attempts to establish new settlements in an orderly manner, and would leave the disputes over the land unresolved.

273. In 1999, the government decided to establish up to five new Bedouin towns. Under the special new arrangement made for the compensation of Bedouins moving these town, the government would provide the land at no charge. Moreover, the Bedouin would receive significant compensation for any property they had to abandon at the unrecognized settlement.

274. The above decision gained the support of the Ministry of Health, the Ministry of Education and the General Health Fund. Each of these departments will see to the establishment of its institutions in the new towns, namely, the establishment of schools, health clinics, and more.

275. On August 21, 2000, The Ministerial Committee on Arab Affairs decided to place its recommendation before the government regarding the adoption of a new plan for dealing with the Bedouin residing in the Negev. The aims of the plan are to generate of a significant change, within a fixed period of time, in the status of the Bedouin population, thus closing the large gap between them and the rest of the citizens of the State of Israel.

276. The ministerial committee further recommends to integrate the Bedouins as citizens with equal rights, as well as equal duties. The above plan is composed of three major elements:

(a) A comprehensive long term plan for the establishment of Bedouin settlements in the Negev, in cooperation with Bedouin representation, and in accordance to the needs of the different tribes.

(b) Continuation of the land settlement claims process. However, this shall not be a prerequisite for the establishment of new settlements or the granting of services.

(c) Improving the image of the seven existing towns by improving infrastructure, mainly educational and sewage infrastructure, and building additional public facilities.

277. There has been no expropriation of Bedouin land since 1989, aside from expropriation for the purpose of roads or railroad construction. The last expropriation, which took place in 1989, was done for the purpose of building a new Bedouin town.

278. Hardly any of the illegal Bedouin houses in the Negev have been demolished within the last two years. According to recent estimates, there are now over 60,000 illegal houses in the Negev.

279. Five new Mother and Child Health Clinics (*Tipat Halav*) have recently been built in Bedouin towns.

280. Since the submission of the Initial Periodic Report, five additional Health Fund medical clinics (*Kupat Holim*) have been built to provide for the needs of Bedouin living in unrecognized settlements, raising the total there to seven.

281. **Educational Facilities:** Since 1998, three new schools have been built, in addition to the establishment of kindergartens, located within the premises of elementary schools. All of the schools have electricity, provided by generators, and are directly connected to water pipes. Almost all of the Bedouin pupils enjoy the same standards of transportation to and from their schools as do the Jewish pupils.

282. **Water Allocation:** Water is allocated to the Bedouin community living in unrecognized settlements through the Water Connections Allocation Committee. Within the last three years, the total number of connections to the water main lines has increased from 60 connections to 260.

283. **Sewage Treatment.** Since the submission of the Initial Periodic Report, there has been a great advancement in the field of sewage disposal. Sewage treatment facilities have been installed and now operated in almost every Bedouin town.

284. A recent budget proposal for the years 2001-2004, based on a four years plan for the completion of development and infrastructure in the existing Bedouin towns, requests the allocation of NIS1,195,050,000. This significant sum is to be used to complete the infrastructure in existing settlements, to construct water and sewage infrastructure where it is incomplete and for the establishment of public facilities such as schools, clinics, etc.

285. The total funds allocated to the Bedouin sector within Israel's budget for the year 2000 have increased threefold in comparison to the time of the submission of the Initial Periodic Report.

286. **Public Services.** The Israeli government seeks to establish six new "Service Centers" for the Bedouins in the Negev. When built, these centers shall contain facilities for various service providers, ranging from educational facilities, religious centers and health centers to shopping and industrial facilities. These centers are planned to be built outside of the existing towns, with the purpose of serving as a basis for new Bedouin towns.

287. Since the submission of Israel's Initial Periodic Report, New Industry and trade centers have been built in Hura, Segev Shalom and Aroer.

288. **Education.** The education system in the Bedouin sector faces many difficulties, deriving from the unique Bedouin lifestyle and culture. The school drop-out rate is relatively high for both genders. Girls drop out of school at an early age due to marriage or tradition, while boys mainly drop out to join the work circle. In addition, Many of the Bedouin pupils who do finish high school choose not to take the matriculation exams, a necessary requirement for higher education, and settle for a high school diploma.

289. Nevertheless, the Bedouin education system has improved greatly in the past few years:

A computerized center has been established in order to reduce the school drop-out rate. A computerized follow up of pupils at risk is being conducted, and much effort is put to bringing them back to school. As a result, the number of pupils in general, and of the female pupils in particular, is constantly increasing.

The educational achievements in primary education had improved during the last two years, due to an intensive program of pedagogical intervention.

A retired Jewish school principal has been assigned to every Bedouin school principle as a "coach", to advise him on educational subjects, as well as management ones.

Ben-Gurion University and the Kaye College in Be'er Sheva have assisted high school teachers in Bedouin schools, in order to promote an increase the number of students who receive matriculation certificates. Over the last three years, the number of pupils receiving matriculation certificates has grown from 10% to 32%.

The number of Bedouin teachers in the Bedouin education system continues to rise. At this time 60% of all teachers in the Bedouin schools are of Bedouin origin, a notable increase from 1996, when only 40% of the teachers were of Bedouin origin.

The Druze and Circassian Sectors

290. A five-year plan for the advancement of the Druze and Circassian sectors was adopted in October 2000. The government resolution is as follows:

291. The government takes note of the report of the director general of the Prime Minister's Office on the agreement reached on the five-year plan for the Druze and Circassian sector, as follows:

(a) Development budget in all the government ministries for the years 2000-2003 shall be as set forth hereunder (in 2000 prices):

- 2000 - NIS180 million

- 2001 - NIS190 million

- 2002 - NIS190 million

- 2003 - NIS190 million

These budgets are derived from the all the budgets which were in existence within the scope of the five-year plan and include, *inter alia*, sewage loans in the scope of NIS16 million per annum and do not include financing to be given for the purpose of construction of neighborhoods for discharged soldiers.

(b) A special one-time grant for the year 2000 in the amount of NIS30 million shall be granted to meet an accumulated deficit in the regular budget. The grant derives from the shortages in the previous five-year plan (1995-1999), and shall be allocated between the councils according to the resources allocation percentage in the current five-year plan, the details of which are to be concluded with the Ministry of the Interior.

(c) Furthermore, a grant shall be given to fill the gaps in the five-year plan which ended in 1999, in the amount of NIS15 million, regarding deficits in the extraordinary budgets and to complete the arrangement concluded on October 21, 1999 (section 2A).

(d) A NIS5 million supplement to the grant shall be granted for the year 2000 in order to minimize the cut in this year. The allocation shall be made according to the proportionate share of the supplement from the grant amount.

(e) The Prime Minister's Office (Coordination, Supervision and Control Branch) in cooperation with council representatives, shall supervise and oversee performance of the development plans and shall ensure their complete performance each year.

(f) This summary concludes the total settling of accounts for the five-year plan for the Druze sector for the years 1995-1999 and suitably answers the future development needs of the sector.

(g) The Committee of Directors General of the relevant government ministries shall consolidate the annual budget allocation according to the various ministries. The allocation to be determined shall be budgeted in separate plans designated for the Druze and Circassian sector.

Article 27 - Rights of Minorities to Culture, Religion and Language

292. **Minority Populations**. At the end of 1998, Israel's population stood at 6,041400, of whom 4,785,100 (79.2 per cent) were Jews, 899,800 (14.9 per cent) were Muslims, 128,700 (2.1 per cent) were Christians, 99,000 (1.6 per cent) were Druze, and 128,700 unclassified. The following table shows the growth of the major population groups (Jewish, Muslim, Christian and Druze) between the years 1996-1998:

Table 1: The Population at the End of Year, By religion (thousands)

	Arab and Others					Jews	Grand Total
	Druze	Christians	Moslems	Un-Classified	Total		
1996	94.5	123.4	839.9	84.0	1 141.8	4 616.1	**5 757.9**
1997	96.7	126.1	867.9	107.7	1 198.4	4 701.6	**5 900.0**
1998	99.0	128.7	899.8	128.7	1 256.2	4 785.1	**6 041.4**

Table 2: The Average Population, By religion (thousands)

	Arab and Others					Jews	Grand Total
	Druze	Christians	Moslems	Un-Classified	Total		
1996	93.4	122.0	825.5	75.0	1 115.9	4 569.2	**5 685**
1997	95.6	124.7	853.9	95.9	1 170.1	4 658.8	**5 828.9**
1998	97.8	127.4	883.9	118.2	1 227.3	4 743.4	**5 970.7**

Status of the Arabic Language

293. **General.** As described in detail in the Initial Periodic Report, Arabic, like Hebrew, is an official language in Israel. In the larger sphere of Israeli civic life, the right of Arabic-speaking minorities to use their language is generally recognized and observed. As stated by justice Cheshin of the Supreme court in P.C.A 12/99 *Jamal v. Saback*:

> "...The Arabic language is the language of approximately one-fifth of the population – the language of conversation, of culture and of religion – and this share of the population is a substantial minority, whom we ought to respect the minority and their language. The State of Israel is a Jewish and democratic state, and being what it is, it has a duty to respect the minority within it: the person, the person's culture and the person's language."

294. **Official Documents**. Under directive number 21.556A of the attorney general, regarding the translation of official documents from Arabic, a public authority should not demand that a

citizen translate into Hebrew a document written in Arabic such as a marriage certificate, a divorce certificates, etc., which was issued by an authority formally acknowledged by the State of Israel.

295. **Vehicle License Plates**. Under a specific directive issued by the attorney general and directed at the Ministry of Transportation, new car license plates are to bear the name of the State of Israel in Arabic as well as in Hebrew.

296. **Publication of Public Tenders in Arabic**. The attorney general has directed all legal advisors of the civil service, that all public tenders are to be published in both an Arabic newspaper and a Hebrew one, as well as made available on the internet, as specified in regulations concerning public tenders. The directive has stressed that it is unauthorized to distinguish between public tenders according to their relevance to the Arab sector. Furthermore, the duty to translate the public tenders into Arabic rests on the government.

Notes

[1] This report covers the period between the end of the first reporting period and August 2000.

[2] *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (28 September 1995).*

[3] The *Wye River Memorandum* signed on 23 October 1998, and the *Sharm-el-Sheikh Memorandum* of 4 September 1999.